

 Brent	Cabinet Member Decision
	Report from the Corporate Director of Residents Services
Authority to Agree costs uplift for Watling Gardens Design and Build Contract	

Wards Affected:	All
Key or Non-Key Decision:	Key
Part Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Part Exempt – The Appendix is not for publication as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: “Information relating to the financial or business affairs of any particular person (including the authority holding that information)”.
No. of Appendices:	Appendix 1 – (Exempt) Watling Gardens contract update
Background Papers¹:	None
Contact Officer(s): (Name, Title, Contact Details)	Emily-Rae Baines Head of Affordable Housing & Partnerships Emily-Rae.Maxwell@brent.gov.uk Zak Rezig Senior Development Manager, Affordable Housing & Partnerships Zak.rezig@brent.gov.uk

1. Purpose of the Report

- 1.1. The purpose of this report is to outline the latest costs increase sought by Hill Partnership LTD (The contractor) to enter into contract and deliver the 125 new homes at Watling Gardens, Brondesbury.
- 1.2. The report relates specifically, to the required uplift sum of £2,964.971 rendering the total fixed price for the contract £41,980,685 instead of the

previously agreed sum of £39,015,634, which has not affected the viability of the scheme.

- 1.3. The report also provides a summary of the background on the current position of the Watling Gardens project and highlights the pressure of cost increase in the current housing development market and construction sector.
- 1.4. The report also highlights the risks for not approving the latest construction costs increases requested by Hill Partnership Ltd.

2. Recommendations

- 2.1. The Cabinet Member for Housing, Homelessness and Renters Security, in consultation with the Leader and Deputy Leader & Cabinet Member for Finance, Resources and Reform, approves the costs increase ahead of the imminent execution of the design and build contract for Watling Gardens with Hill Partnerships Ltd, originally in the sum of fixed price of £38,535,634, plus the additional sums of £480,000 to reflect the tenure changes required for the viability assessment undertaken and agreed by Cabinet in June 2022.
- 2.2. The Cabinet Member for Housing, Homelessness and Renters Security, in consultation with the Leader and Deputy Leader & Cabinet Member for Finance, Resources and Reform, notes and approves that the cost increase sought is £2,964,971, which will render the total cost of construction to **£41,980,605**.
- 2.3. The Cabinet Member for Housing, Homelessness and Renters Security, in consultation with the Leader and Deputy Leader & Cabinet Member for Finance, Resources and Reform, approves the increase of costs to be confirmed and conveyed to Hill Partnership Ltd in a side letter, which will state that the uplifted costs will be dealt with under the costs fluctuation clause within the JCT contract.

3. Background and Detail of the Development

- 3.1. Watling Gardens was identified as a site for 125 new Council homes including 45 single person supported living homes and was presented to and approved by Cabinet in June 2021. This scheme forms part of the New Council Homes Programme and overall target to deliver 1,700 by 2028. It should be noted that this scheme has been awarded grant funding by the Greater London Authority and requires the Council to start on site by 31 March 2023. This scheme is also one of three schemes being managed via the Council's Collaboration Agreement with Network Homes.
- 3.2. The Council entered into a contract with Hill Partnership LTD for the delivery of this scheme and works started on site in November 2022 meaning the GLA deadline has now been met for release of grant funding.

3.3. Since entering into the contract, the market has changed significantly.

3.4. Please see appendix 1 (exempt) for update on the contract.

4. Financial Implications

4.1. Further viability assessment was carried out and established that despite the costs increase sought by Hill Partnership Ltd, the opportunity for the required 125 units is still ticks positively the financial viability requirements to be progressed. Table 3 below shows the actual financial position compared to the previous appraisal forming the basis of the report to the June 2022 Cabinet.

4.2. Costs analysis exercise and Value for money assessment has also been carried out and confirmed by JRP (the employer's agent).

4.3. Table 3: Viability Assessment Comparison

	–June-22 Appraisal	–Current Appraisal
Development Costs		
Development plus On Cost	£47,643,492	£51,285,087
Construction Cost only	£38,670,144	£41,980,685.00
Contribution to Third Party	£0.00	£0.00
CIL Payment	£0.00	£0.00
Receipts, Revenue and Savings		
Gross Income (Annual)	£1,274,624	£1,407,884
Capital Receipts (One-Off)	£13,171,076	£13,171,076
Other Receipts (One-Off)	£0.00	£0.00
Grant (One-Off)	£11,897,000.00	£11,897,000.00
Financial Analysis		
NPV at 60 Years	£110,768	£653,500
Debt Paid back	Year 60	Year 59
Price Per Home	£309,361	£335,845
Price Per Home (inc on Cost)	£381,148	£410,281

Note: Apart from the increase in cost, the other movements in the scheme's input parameter is that we have now a higher level of rent (£264.15 weekly pu.) approved by GLA for the NAIL units (previously assumed at £208.40).

Legal Implications

- 4.4. The contract is a works contract under the Public Contracts Regulations (the 'PCR') and is therefore governed by the PCR as the value is in excess of the threshold for Works. The contract award is also subject to the Council's own Standing Orders ('CSO') in respect of High Value Contracts and Financial Regulations.
- 4.5. The procurement was undertaken through Network Homes Framework ('the Framework') in collaboration with Network Homes and in accordance with the PCR and the Framework rules. Relevant approvals under the Council's constitution for the use of the Framework was obtained for the procurement and on 22nd June 2022, Cabinet approved award of the contract to Hill Partnerships Ltd. The intention is to execute the contract in accordance with Cabinet approval. However Officers recommend approval of the cost increase resulting from construction market pressures/inflationary increases and the tenure changes (approved by Cabinet decision of 22nd June 2022), which will give rise to variation of the contract.
- 4.6. Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, Chief Officers and Directors (pursuant to paragraph 9.7 of Part 3), are able to vary contracts and agreements without the need for Cabinet approval provided that variation would not be in breach of PCR, does not substantially alter the terms and conditions of the contract, there is sufficient existing budgetary provision for the variation, the total value of the variation is less than £1m and if the total value of the variation (and any previous variations agreed under this provision) is more than £50k, it is not more than 50% of the original contract value and where the value is above £1m or 50% of the original contract value, the decision is to be referred to the relevant Cabinet Member in accordance with paragraph 13 of Part 3 of the Constitution. Officers are therefore required to obtain approval of the Cabinet Member for Housing, Homelessness and Renters Security] and [Deputy Leader & Cabinet Member for Finance, Resources and Reform] to vary the contract.
- 4.7. Based on the value of the contract and the variation, the variation would not be in breach of the PCR as modifications (variations) of contracts are allowed under regulations 72 thereto without commencing a new procurement. The terms and conditions of the JCT DB contract which has been agreed by the parties will not be altered as a result of the variation.
- 4.8. Should additional funding be required for the particular project, officers would be required to undertake the formal process to seek a virement between project and programme headings of up to £3M.

5. Key Risks to Brent

- 5.1. Key potential risks to the council to take in consideration should we not agree to the sought cost increases reported here are highlighted below:

- Excessive loss and expenses in terms of development on costs.
- Jeopardise the delivery of the 125 units which are key contribution to the target figure of 1700 Council homes by 2028 in the current NCHP.
- Incur further cost increases and jeopardise the viability of the project should we go back to cabinet again and reengage on another tender exercise again.
- Miss the start on site (SOS) milestone date of March 23 agreed in our bid to the GLA which will prompt potential review and withdrawal of the £11.8m agreed grant funds allocated by the GLA for the delivery of the scheme.
- Reputational damage to the Council in terms of failing in its commitment to deliver the New Council Homes Programme.

Related documents:

Cabinet Decision Jun 2022

Report sign off:

Hakeem Osinaike
Director of Housing