



**Cabinet**  
11 December 2023

**Report from the Corporate  
Director of Resident Services**

**Lead Member - Cabinet Member  
Housing, Homelessness and  
Renters Security  
(Councillor Promise Knight)**

**Affordable Housing Supply (2023) – Update**

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key-Decision
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – Appendix 1 is exempt 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)"
<b>List of Appendices:</b>	One Appendix 1: (Exempt) Additional Financial details
<b>Background Papers:</b>	<a href="#">Church End Market re-location consultation</a> <a href="#">Church End Growth Area Masterplan Supplementary Planning Document</a>
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*Please note report republished on 8 December 2023 to include amendments underlined and highlighted in bold.*

## 1. Executive Summary

- 1.1. The Council has a commitment to deliver 5,000 affordable homes in the borough by 2028, of which 1,700 will be delivered directly by the Council.
- 1.2. The purpose of this report is to provide an overview of progress against these targets. This report also sets out specific decisions required for schemes being delivered directly by the Council, whether this be through the New Council Homes Programme (NCHP) or Regeneration schemes.

## 2. Recommendation(s)

That Cabinet:

- 2.1. Agree to award the Main works contract to Wates for the delivery of Church End including 99 homes and a new market square for the value set out in Appendix 1 – recommendation 1 (containing exempt information).
- 2.2. Note challenges set out regarding the delivery of Morland Gardens in paragraph 5.3 – 5.10 and agree for officers to develop an alternative site strategy for future consideration by Cabinet.
- 2.3. Approve, **that if necessary**, the Council to consult on ending the South Kilburn Promise (Landlord Offer) for new temporary accommodation households and the use of voids properties identified on the South Kilburn regeneration area for temporary accommodation, noting the legal considerations around consultation set out in Section 8.
- 2.4. Note the updated programme budget for the New Council Homes Programme of £495.5m and approve the use of usable Capital reserves to fund this.

- 2.5. Agree to wave the delegated authority limits to enable the Corporate Director of Resident Services in consultation with the Corporate Director of Finance and Resources to **agree the terms of the lease and thereafter enter into and complete on** a 5-year leasing arrangement with the developer for the new build scheme at Manor Park Road, Harlesden NW10 4JJ for use as emergency and settled temporary accommodation, as set out in Section 6 **and where necessary make any further amendments as and when required.**
- 2.6. Approve an acquisitions budget of £52.7m to address the acute housing and temporary accommodation needs and challenges. This is in addition to any acquisitions already approved by Cabinet.
- 2.7. Agree for a new delegation to the Corporate Director of Resident Services in consultation with the Corporate Director of Finance and Resources, to acquire 133 homes from the open market (including both freehold and leasehold acquisitions ) such delegation to include negotiating and approving the terms of any freehold or leasehold acquisitions and thereafter entering into the relevant transactional documents to address the acute housing and temporary accommodation needs in line with approach set out in Section 11 and Appendix 1 (containing exempt information), which is in addition to those acquisitions already approved by Cabinet.

### **3. Detail**

#### **Cabinet Member Foreword**

- 3.1. Increasing the supply of affordable housing is integral to meeting the long-term housing needs of Brent Residents. This report shows that we are on track to meet our target of 5,000 homes by 2028, despite the economic challenges the Council is facing.
- 3.2. Whilst we are on track, we must now prioritise which sites we as the Council take forward, to do this we must consider how new homes not only meet housing need but benefit the wider community and the strategic priorities of the Council.
- 3.3. Several schemes in this report have faced significant challenges, examples include delays, objections, and new requirements like a second staircase. These factors are in some cases the reason why a scheme is unable to progress. We must not lose sight of the fact that every scheme we cannot take forward leaves households living in temporary accommodation for longer periods of time. We are in the grip of a housing crisis, with around 150 families presenting as homeless most weeks now, and the homes that we had hoped to build here are desperately needed.
- 3.4. However, Brent - like councils across London - is facing a perfect storm of financial pressures caused by continued high inflation, rapidly increasing demand for services and reduced government funding since 2010.

- 3.5. That is why this report emphasises the importance of being open and transparent with all about the challenges the Council are facing to develop homes. This report reinforces the need of Brent residents facing homelessness as our driver to deliver and it commits to engaging with established communities to reduce unnecessary challenge and delays.

### **Contribution to Borough Plan Priorities & Strategic Context**

- 3.6. The borough plan sets out the Council's ambition to provide safe, affordable housing for residents and under the strategic priority 'Prosperity and Stability' reaffirms the pledge; *to deliver 5,000 affordable homes across the borough of which 1,700 will be delivered by the Council by 2028.*
- 3.7. Other strategies relevant to achieving this strategic priority include:
- Local Plan
  - Church End Masterplan
  - Procurement Strategy
  - Social value delivery plan
  - The Poverty Commission
  - Housing Allocations Policy
  - Climate and Ecological Emergency Strategy
  - Homelessness and Rough Sleeper Strategy
  - Equality Strategy
  - Health and Well-being Strategy
  - Inclusive Growth Strategy
- 3.8. The Council is currently developing an overarching Housing strategy, in which supply of new Affordable Housing will be a key strand.

## **4. Summary of affordable housing delivered**

- 4.1. The Affordable Housing and Supply service monitors affordable housing supply across the borough against the targets set in the Borough Plan. Developing affordable housing remains challenging within the current market which is resulting in the tenure of schemes being revisited and some pipeline schemes pausing. Though cost of materials has stabilised, they remain high. The average cost is now at £4,068 per sqm based on figures reported by a London based affordable housing benchmarking collective. The table below summarises the current position achieved.

**Table 1: Breakdown of affordable homes delivered in the borough as of November 2023**

Year	19/20	20/21	21/22	22/23	23/24* YTD + forecast	Totals by tenure
<b>Council General Needs</b>	55	93	249	40	123	<b>560</b>
<b>RP General Needs</b>	65	203	238	293	141	<b>940</b>
<b>Council Supported living</b>	11	0	0	0	61	<b>72</b>
<b>Council other (i.e. Temporary Accommodation &amp; Shared Ownership)</b>	0	0	157	22	1	<b>180</b>
<b>RP Shared Ownership</b>	105	298	144	352	117	<b><u>1016</u></b>
<b>RP Other</b>	36	491	363	78	165	<b><u>1133</u></b>
<b>Total</b>	<b>272</b>	<b>1,085</b>	<b>1,151</b>	<b>785</b>	<b>608*</b>	
<b>Overall total: 3,901</b>						

- 4.2. The table confirms that by the end of the financial year, the Council will have seen 3,901 affordable homes delivered in the borough since 2019/20. There has been movement in the numbers reported following an exercise carried out by the service to cleanse the data. Most of the movement for previous years is linked to Quintain providing an updated version of affordable housing delivered. This will be reflected in the Council's performance scorecard.
- 4.3. Excluding the schemes forecast to complete this financial year (Preston Park Library, Brent Indian Community Centre and Learie Constantine), the Council alone has a further 1,190 homes currently on site.
- 4.4. Cabinet members should ensure the details contained in the exempt Appendix 1 concerning the schemes covered in this report are considered by them alongside the information in the main report.

## **5. Section 1: Homes delivered by the Council**

### ***Schemes under Pre-Construction Services Agreement (PCSA)***

- 5.1. A PCSA is the first part of a two-stage contractor procurement process and includes technical design often in conjunction with early works to prepare a site, identifying and removing risks and allowing a contractor to familiarise themselves with what is required to inform a price for the main works. This type of contract does however place more financial risk on the Council, as a PCSA allows contractors to unearth 'unknown unknowns' and pass any financial implications onto the Council. The following section within the report summaries the current position for all three schemes which are currently under PCSA, specifically making recommendations on how to proceed.

## **Church End**

- 5.2. Church End is a mixed redevelopment under the New Council Homes Programme and will provide 99 homes for London Affordable Rent, 4 commercial units and a new market square. The scheme forms part of the 'Church End Growth Area Masterplan Supplementary Planning Document', which recognises Church End as a ward with high levels of deprivation; it is also a 'Green Neighbourhood'. The Council led scheme is designed to be the catalyst for regeneration in Church End and leads on one of the most prominent changes - the redevelopment of the market square and enhanced public realm. The Church End Masterplan emphasises the newly designed and accessible market square as being at the heart of regeneration for this area. This scheme however faces significant financial challenges and so a decision is required on the Council's ability to proceed.

## **Morland Gardens**

- 5.3. In July 2022, the Council awarded a contract to complete Morland Gardens. The main works under this contract however are not triggered unless there is satisfactory completion of the PCSA, specifically an agreed technical design, enabling works and demolition. This scheme was initially approved by Cabinet in January 2020 and intended to deliver 65 homes at London Affordable Rent, plus a state-of-the-art adult education centre including 675sq. of affordable workspace and a community cafe. Brent Start, (previously based at Morland Gardens) was decanted to an alternative site – Twybridge Annex - for 2-years to enable this scheme to be built.
- 5.4. This project has been significantly impacted by the financial crisis and increased cost of construction materials. This has affected the viability of the scheme..
- 5.5. In addition to the financial viability issues the Council faced further challenges when seeking a stopping up order. An application for a stopping up order was submitted in March 2022 for parts of the public highway required for development under s247 of the Town and Country Planning Act 1990.
- 5.6. Several objections were received to the stopping up order and the GLA determined there was a need for a public inquiry as one of the objections had not been considered within the planning application. The GLA's decision to call a public inquiry meant that works on site, and the Council's ability to complete the PSCA was limited.
- 5.7. These delays had a significant impact in the Council's ability to deliver this scheme and as a result meant Morland Gardens was subjected to the unforeseen financial pressures which has affected the viability of projects nationally. Delays also meant the full programme required by the GLA was not met and subsequently the grant allocated to this scheme was no longer available as the 2016-2021 grant programme finished in March 2023.

- 5.8. On 31<sup>st</sup> October 2023, the planning permission for Morland Garden's expired, this means if the scheme was to proceed, planning would need to be applied for.
- 5.9. Due to the financial pressure and practical challenges to address the public inquiry and second staircase requirement, combined with the expiry of planning permission, it is recommended the Council does not proceed with this scheme and an options paper be brought forward to determine the future of the site.
- 5.10. Not proceeding with the development does have implications beyond the housing provision, these are:
- Brent Start would need to make their temporary location in the Twybridge Annex their permanent home or find a different location in the area. Whilst the site mostly works and provides a good teaching and learning environment, some alterations need to be made for a permanent base, specifically a welfare space for students. Further, the Twybridge Annex site was used as a mainstream education setting and so any permanent change of use would require Secretary of State for Education approval under Section 77 of the School Standards and Framework Act 1998 and Schedule 1 of the Academies Act 2010. This change may involve a financial payment towards improvements to school playing fields elsewhere in the borough.
  - The opportunity to link skills development in catering and hospitality will be lost because of the lack of a community café.
  - The lack of provision of affordable workspace and opportunities for local enterprises to find space.

### **Edgware Road**

- 5.11. Edgware Road is the only scheme currently in the programme that will deliver temporary accommodation. Based on the Council's flagship scheme Knowles and Anansi House, this scheme will deliver 110 homes for temporary accommodation at Local Housing Allowance. This in-borough scheme will in the longer term, provide much needed affordable accommodation for homeless households in Brent. The scheme also includes some commercial retail space which can be leased directly by the Council or sold on a 125-year lease.
- 5.12. This scheme is subject to a re-design following the Major of London's announcement requiring all buildings over 18m or 7 storeys to include a second staircase. The London Fire Brigade are also recommending a third lift. Officers are reviewing the implications of these changes on the scheme but would expect the PCSA to complete in early 2024 and subject to the submission of satisfactory second stage proposals, the build would take approximately two years thereafter.

## Schemes on site and in main works contract

- 5.13. There are currently 13 schemes on site which are set out in Table 2, this includes Wembley Housing Zone and Neville and Winterleys, which is a South Kilburn Regeneration scheme.
- 5.14. When considering the financial pressure associated with the New Council Homes Programme for schemes that are onsite, the main challenge for the Council has been managing delays for scheme completions. Delays to scheme completions have ramifications for the wider housing directorate as it means households living in temporary accommodation for longer periods and depending on the cause of the delay could lead to variations to the contract requiring more spend. Actions the service already takes include issuing Liquidated Ascertained Damages (LADs) to recoup lost income for the Housing Revenue Account. However, in some cases, the Council can also be financially penalised by the contractor if a delay is down to the Council.
- 5.15. The table below lists out all current schemes on site and the slippage in days. The report then goes on to explain the causes of delays and what improvements are being introduced to reduce and manage delays going forward.

**Table 2: Schemes in order of current forecasted handover date and no. of days delayed**

Scheme name	No. of Homes	Original Completion date	Current forecast completion date	No. of days delay
Stonebridge Hillside and Milton Avenue	73	22/09/2022	30/10/2023 *Now complete	403 days
Preston Community Library	12	01/04/2023	19/12/2023	262 days
Brent Indian Community Centre	29	01/02/2024	01/02/2024	0 days
Aneurin Bevan Court	9	02/06/2023	26/02/2024	269 days
Learie Constantine	26	08/01/2024	31/01/2024	23 days
Pharamond	10	01/01/2023	13/02/2024	450 days
Longley Avenue	1	01/01/2023	01/08/2024	578 days
Clock Cottage (Supported Living)	13	31/07/2024	23/11/2024	115 days
Grand Union Phase 2	115	01/06/2025	30/06/2025	29 days
Alperton Bus Garage	155	01/06/2025	01/06/2025	0 days



Fulton Road (Mixed of General Needs and Discount Market Rent)	294	01/07/2025	01/07/2025	0 days
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5.16. The following paragraphs provide additional information for those schemes listed in the table above where there has been a significant delay in completion.

*Stonebridge Hillside and Milton Avenue*

5.17. Stonebridge Hillside and Milton Avenue is a 73-home scheme of which 22 are 4-bedroom homes and 51 are flats ranging from 1-3 bedrooms. The Council took handover of all 4-bedroom houses in June 2023, but the 51 flats were not available for handover due to concerns raised by the London Fire Brigade on the Building Fire Safety Strategy. Following proposals to manage any fires in the car park and subsequent confirmation from the London Fire Brigade of the suitability of these measures, the contractor put these measures in place, Building Control issued the completion certificates on 19 October 2023. The Council has since taken handover and homes have already been moved into by residents.

*Preston Community Library*

5.18. Initially delays to this scheme were a result of the party wall agreement required with the neighbouring site which is a car dealership. The proximity of the development meant an agreement needed to be reached with the adjoining owners. This site was also impacted by the shortage of bricks which was documented in 2022. More recently, the scheme was affected by inclement weather, which meant the scheduled date for removing the crane from the site had to be rescheduled. This required further consultation with statutory partners and colleagues in highways. This scheme is now due to complete in December 2023.

*Pharamond*

5.19. For Pharamond, the delays were largely attributed to issues with entering the contract meaning the start on site slipped by 2 months. The build itself has also taken twice as long as initially envisaged, with the scheme originally anticipated to be delivered in 11 months. However, the delay was due to shortages in materials and additional clearance work of the site. This scheme is being delivered by a Tier 3 contractor who are more susceptible to economic pressures and changes in the supply chain.

*Longley Avenue*

5.20. Longley Avenue is one single home and is linked to Pharamond contractually. The Council has been in dispute over this site with the neighbouring leaseholder and this scheme has not yet been started due to ongoing legal action being taken. The leaseholder claimed the land the Council is seeking to develop on belongs to them. However, court rulings to date have sided with the Council. A

report from the Secretary of State who were approached by the Leaseholder for legal support, also stated that there was no case. The Leaseholder has now submitted a claim for adverse possession and following an initial hearing in November 2023, a full hearing has been scheduled for January 2024.

### Clock Cottage

- 5.21. This scheme was delayed as the Contractor stated the original soil report commissioned was defective and so a further report was required plus additional piling works resulting in a further cost of £150K to the scheme. Further instructions were given to the contractor by Brent, which the Contractor claim caused delay requiring an Extension of Time and therefore a loss and expense claim. The total impact of these delays was calculated by the Employers Agent.

### Lessons Learnt

The purpose of reviewing each of these schemes to better understand delays was to ensure improvements could be made to working practices. It is acknowledged that some issues are outside of the Council's control and therefore contingency is built into a scheme to offset issues such as delays.

### ***Collaboration Agreement - Watling Gardens***

- 5.22. Watling Gardens is currently on track. However, the Council received a request for a variation as this scheme has been subject to re-design following the announcement of a second staircase being required in buildings over 18 metres. This required a re-design of some elements of the scheme and whilst still on track for delivery costs increased.
- 5.23. Sovereign Network Group ("SNG") (formerly Network Homes) were issued with an instruction to ensure value engineering was carried out to reduce the pressure back to a cost neutral position.

## **6. Section 2: Phase 2 - New Council Homes Programme**

- 6.1. If all schemes continue and are delivered the Council will achieve its target of 1,700 homes by 2028. The Council has however been awarded £111m to deliver a further 572 homes under the 2021-26 Homes for Londoners programme.
- 6.2. There have been several changes to the new grant regime, these are:
- Rent levels to be set at Social Rent instead of London Affordable Rent
  - Grant allocation has been negotiated with individual organisations rather than a blanket fixed grant amount
  - The programme requires 25% of homes to have a form of Modern Methods of Construction
  - It is down to the organisation to determine how much grant to allocate individual schemes.

- 6.3. A paper setting out the proposed pipeline of sites will be brought forward with the recommended procurement routes. The Council is however required to ensure all schemes have started on site by April 2026 and will need to return any grant associated with schemes not started by this date.

#### Pipeline - Kilburn Square

- 6.4. Kilburn Square is set to deliver 99 homes for General Needs and 40 homes for Supported Living. This scheme was originally part of the 2016-2021 programme but was paused due to a viability gap and a Cabinet paper in 2022 explored the option to convert 28 homes to Shared Ownership to reduce this gap.
- 6.5. The GLA agreed to allow the Council to roll this scheme into the new grant programme, which has reduced this viability gap without the need to convert any homes to Shared Ownership which is not the Council's preferred tenure to deliver. Due to the existing viability gap, it is not possible to proceed with any additional schemes which present a gap, however it should be noted that alternative options are being explored to mitigate this deficit and will only proceed if this gap is removed.. This is to avoid placing any further pressure on the Council's Housing Revenue Account.
- 6.6. The procurement for this scheme was also paused and SNG has indicated that this procurement exercise could be utilised, and bidders asked to submit a new price based on a single stage fixed price contract.
- 6.7. This scheme is the only remaining larger scheme (100 homes+) the Council can develop on Housing Land and so remains a priority for delivery subject offsetting the remaining viability gap.

### **7. Section 3: Wembley Housing Zone**

- 7.1. The Council is in contract with Wates to deliver the Wembley Housing Zone (WHZ) mixed use regeneration of council-owned land at Cecil Avenue and Ujima House on Wembley High Road. Early works carried out on site at the start of the year met the GLA start on site deadline of 31st March 2023. Wates have subsequently undertaken site investigations, and service disconnection works are happening at Ujima House; these works are ongoing.
- 7.2. Wates' focus has been on design development to ensure both schemes meet new fire regulations, planning amendments, discharge of planning conditions, and a reserved matters planning application for Ujima House. For Cecil Avenue, the introduction of 6 new secondary stair cores has reduced the number of homes from 250 to 237, with Ujima House maintained at 54 homes. GLA grant is now via the Building Council Homes for Londoners programme at £17.4 million and the Council has claimed 75% of this grant.
- 7.3. The programme is geared towards implementing the Cecil Avenue planning permission in advance of the expiry date 5th February 2024, with subsequent main works following on April / May 2024. At Ujima House reserved matters

planning is due to be secured March 2024 with demolition of the building to follow. The current programme is for Ujima House scheme practical completion in January 2026 and the larger Cecil House scheme practical completion in September 2026.

## 8. Section 4: South Kilburn Regeneration

- 8.1. The South Kilburn regeneration programme will deliver over 2,400 new high-quality homes of which 50% will be affordable homes.
- 8.2. The programme is around halfway through. Ten blocks have been delivered or are on site including a medical centre, community halls and affordable workspace. Seven sites remain to be developed, including a new primary school building, enhanced public realm and open spaces.
- 8.3. In March 2023, the Council entered into a conditional Development Agreement and an Early Works Agreement with Countryside Properties (CP) for the redevelopment of Neville Winterleys, Carlton Hall and Carlton House. The scheme has now commenced, and good progress has been made on site clearance, services disconnections, and diversions, hoarding and demolition.
- 8.4. The affordable homes will be Council properties, rather than transferring to a registered provider, for existing South Kilburn tenants.
- 8.5. There are currently 534 void properties across the South Kilburn regeneration site as households have either been moved into new or alternative homes, or leasehold properties have been bought back. Due to the increased demand for temporary accommodation and rising hotel costs, an exercise has been carried out to assess the suitability of South Kilburn voids for use as temporary accommodation.
- 8.6. Of the 534 voids, 52 have been identified as suitable for potential use **until such time as the buildings are demolished for the purpose of regeneration**. This is based on their condition and the impact of using them on the regeneration programme. These are based in John Ratcliffe, William Dunbar, William Saville, and Zangwill. Historically, those living in temporary accommodation on the regeneration site were included in the South Kilburn Promise (Landlord Offer), which commits to re-housing temporary accommodation residents within South Kilburn, with the option to move outside of the estate (with the household's agreement) along with other commitments. This was specifically for those impacted at the time of the ballot. If these voids are used for temporary accommodation, this report recommends that the South Kilburn Promise does not apply going forward. This implications of this proposal on the 2019 ballot outcome have been discussed with the Greater London Authority and no implications were identified.
- 8.7. The rationale for the promise not applying going forward to temporary households, is largely based on these households bypassing the choice-based lettings scheme, where other households have waited for years for family sized

accommodation. Additionally, these households will not have been impacted by the regeneration scheme in the way those involved with the ballot.

- 8.8. This proposal does create a risk that temporary households will need to be decanted elsewhere, most likely away from the estate, when blocks are due to be demolished. Plus, there will be two tiers of temporary accommodation on the site, those who are eligible for the South Kilburn Promise and those who are not. This risk however is balanced by the immediate reduction in pressure for the Council as moving 52 households out of their current temporary accommodation and into South Kilburn would save the Council approximately £3,017 a night based on the average nightly rate paid and subsidy loss currently being covered by the Council. The use of these void properties has wider benefits to the overall wellbeing of households currently facing homelessness, many of whom are having to be placed outside of the borough which ultimately affects schooling and work.
- 8.9. To amend the South Kilburn Promise (Landlord Offer) for new temporary accommodation tenants, the Council is required to amend the Local Lettings Policy (allocations scheme) which requires consultation. The Council is currently seeking legal advice on how to consult and once obtained, this will guide officers to carry out the relevant consultation ahead of any decision being finalised.

## **9. Section 5: Supply from Registered Providers**

- 9.1. Table 1 in this report shows the supply achieved to date from Registered Providers and other developers providing affordable housing.
- 9.2. Challenges however within the sector are seeing development slow down. Registered Providers are now revising their development programmes and prioritising investment into existing homes to meet the requirements of the Building Safety Act (2022) and zero carbon targets. Registered Providers have also been heavily impacted by increased construction costs and instability among contractors. In Brent, a scheme of 40 x shared ownership homes Heron House was due to complete this financial year, however the developer entered administration so it has now stalled. The Council is liaising with the Registered Provider PA Housing to ensure plans are underway to revive the scheme and complete it.
- 9.3. Insight from the sector, gained from the London benchmarking club, of which the Council is a member, confirmed that Q1 of 2023, material prices were stabilising and availability and lead times for materials were now back at the optimum level.
- 9.4. The average cost to build per sqm was reported at £4,068 (the Council were building at £2,500 when the programme started) and there had been a slowdown in the number of tenders being issued by developers, Registered Providers and Councils. This in turn mean's competition among Contractors is starting to increase.

## **10. Section 6: Increasing supply of Temporary Accommodation**

- 10.1. Building on the proposal set out in Section 4 to use South Kilburn Voids for Temporary Accommodation, the Council has a statutory duty to provide suitable temporary accommodation to homeless persons who are eligible and in priority need under homelessness legislation. The duty to provide temporary accommodation (TA) usually comes to an end by arranging an offer of either social housing or private rented sector housing to end the main homeless duty.
- 10.2. There are currently 740 households in Stage 1 emergency TA, out of these 133 are the highest priority in terms of decant, due to cost to the council through TA subsidy loss, there are also approximately 20 households accommodated in a commercial hotel. Using commercial hotels places even greater pressure on the Council as nightly rates are at market levels and rise depending on the day of the week. The high level of demand from homeless households and lack of affordable accommodation is generating a requirement to provide an unprecedented level of nightly paid Emergency TA.
- 10.3. The demand for TA exacerbated by the lack of homes for private rent in London, where rents are affordable specifically for those in receipt of Housing Benefit. The reduction in the private rental market is a result of national policy and economic factors, examples include the rise of inflation placing pressure of landlords needing to re-mortgage and the threat of ending 'no-fault evictions' as well as requirements to raise standards meaning landlord need to invest more in the homes they rent. This has impacted Brent's ability to support households to secure private rented homes in Brent and outside of Brent and means the Council has continued to retain a duty to house these households.
- 10.4. The Council has emergency TA schemes designed to accommodate statutory homeless households, such as Anansi House and Knowles House, these are already operating at full capacity with very limited potential to secure these households homes in the private rented sector and end the homeless duty. As a result, alternative accommodation needs to be secured to try to meet current and expected demand. Steps are also being taken to develop more, specifically Edgware Road as discussed earlier in this report which will contribute to mitigating a risk of demand that cannot be met in the future. However, there is a need for additional TA to be secured for this current wave of demand.
- 10.5. To address the current pressures, a cross-council working group has been set up to explore solutions. Through this initiative, opportunities to purchase or lease blocks and hotels for temporary accommodation are considered. One of the schemes explored by Officers is 45 Manor Park Road Harlesden NW10 4JJ. This opportunity will provide 45 x self-contained TA homes via a lease ranging from 1 - 3 bedrooms. The Council is proposing to enter into a 5-year lease for this property subject to the final heads of terms being agreed.
- 10.6. These acquisitions are spend to save initiatives, aimed at offsetting the £13.1m in year pressure previously reported as a result of increased homelessness demand. To address the growing demand, it is proposed a target of acquiring

a total of 133 homes for TA is set and a budget of £52.7m approved to facilitate the purchase of schemes and will also explore lease opportunities.

- 10.7. The GLA has now published a new prospectus under the Affordable Homes Programme 2023-26 which offers grant funding for Local Authorities to acquire both social and TA homes and must complete by March 2026. This grant funding will be used to support this programme of acquisitions, though it should be noted short term leases are not eligible.

## **11. Financial Considerations**

### **Capital Considerations:**

- 11.1. For the Council to proceed with all the schemes in contract within the New Council Homes Programme and continue with main works at Church End, all usable (not restricted) capital reserves will need to be utilised to fund the overall. By drawing on these reserves, there will be no other funding sources to meet any new overspends for the wider Capital Programme or fund new projects that do not have a funding source. This will significantly restrict the delivery of future proposals not just within the New Council Homes Programme.
- 11.2. The updated budget request for the delivery of the New Council Homes Programme is £495.5m as found in Appendix 1 (containing exempt information).
- 11.3. Due to the significant design changes required at Edgware Road, a further viability assessment will be conducted to assess the affordability of the development.
- 11.4. A further acquisition programme is also proposed to help alleviate the demand pressure for TA with a budget request of £52.7m to provide 133 homes. Council officers will continue to collectively appraise schemes for their suitability, and financial viability and this report then recommends that authority is delegated to the relevant Corporate Directors to negotiate and approve purchasing terms to expedite the Council's response to this crisis.

### **Revenue Considerations:**

- 11.5. There is an overall projected overspend of £13.1m within the Housing Service forecast for 2023/24, therefore entering into the lease at Manor Park Road represents a cost avoidance, rather than a cashable saving. Further details on the lease can be found in Appendix 1. This report recommends that authority is delegated to the relevant Corporate Directors to negotiate and agree terms any new lease to expedite the Council's response to the TA crisis.

## **12. Legal Considerations**

- 12.1. Development of sites detailed in this report, requires the Council to enter into a range of construction contracts and development agreements. Once the Council is in contract, there are constraints as to options available to it,

particularly where schemes become unviable. Where the Council has entered into a two-stage contract involving a PCSA, a full assessment of options should therefore be undertaken before the Council triggers the construction element of the contract.

- 12.2. As detailed in the report, a number of schemes are over budget. Officers have highlighted reasons for this, to include those that are beyond the Council's control such as the increased cost of materials and external factors leading to project delay. However, there are certain cost increases that the Council can influence and improvement action is suggested, to include robust contract management and escalation of issues under the contract.
- 12.3. Significant grant funding has been secured from the GLA. The Council has entered into grant agreements with the GLA governing the award of such funding to include the requirement to deliver specified numbers of new homes with start on site dates specified. Failure to observe grant conditions or achieve specified delivery numbers may lead to a requirement to repay grant funding and therefore efficient and timely delivery approaches are essential to mitigate the risk.
- 12.4. In relation to the Church End project, Officers recommend that this project proceeds and that with the increase in costs, authority is sought from cabinet to trigger with the main works contract with Wates.
- 12.5. With regard to Morland Gardens, there is a recommendation to abort the current scheme and develop an alternative site strategy for further consideration. Officers have detailed that the main reason for the recommendation is financial viability of the scheme but it is also noted that planning consent for the scheme has not yet been implemented and expired on 30 October 2023. Counsel's advice was sought and confirmed officers' view that the planning permission dated 30 October 2020 (20/0345) has not been implemented.
- 12.6. In relation to Longley Avenue, it is indicated that the Council will need to consider whether to progress this scheme. Given that the scheme is linked to Pharamond contractually, there will need to be negotiations with the contractor regarding the effect of discontinuing Longley Avenue if this is the preferred way forward.
- 12.7. In relation to the removal of the South Kilburn Promise, there are numerous legal implications to this. In 2019 the Council amended the Allocation Scheme to include Chapter 13, paragraph 10.4 which specifically states that "*The Council will give priority to accepted homeless households, living in temporary accommodation provided by the Council on an estate that is to be regenerated, for an allocation of social housing that becomes available on the same estate where the regeneration is taking place*". In addition, there was specific amendment to the Local Lettings Policy – Amendment 4 which "*Give priority to accepted homeless households living in Temporary Accommodation on an estate that is being regenerated, for an allocation of social housing that becomes available on the same estate*". Both of these amendments were



following consultation, **the Council is obtaining further legal advice to ascertain whether there is a need to consult in this regard.**

- 12.8. Section 166A(13) of the Housing Act 1996 states that before adopting an allocation scheme or making an alteration to their scheme reflecting a major change of policy, the Council must-
- (a) send a copy of the draft scheme, or proposed alteration, to every private registered provider of social housing and registered social landlord with which they have nomination arrangements (see section 159(4)), and
  - (b) afford those persons a reasonable opportunity to comment on the proposals
- 12.9. In addition to consultation under the Housing Act 1996, a duty to consult may arise where the Council has conducted itself in such a way so as to give rise to a legitimate expectation on the part of any person that it would consult. There was extensive consultation with residents regarding the introduction of the South Kilburn Promise and subsequent changes to the Allocation Scheme and Local Lettings policy. This past practice of consulting in relation to such changes could raise a legitimate expectation that changes to the South Kilburn Promise, Allocation Scheme and Local Lettings Policy will be consulted on.
- 12.10. It is apparent therefore if the Council wishes to no longer be bound by the South Kilburn Promise, then it **may** need to carry out a formal statutory consultation on this proposed change. With regard to the nature of consultation, **should consultation be required**, the Gunning principles set out in R v London Borough of Brent ex parte Gunning and subsequently approved by the Supreme Court in R (Moseley) v Haringey London Borough Council state that:
- Consultation must be undertaken at a time when proposals are still at a formative stage;
  - Sufficient reasons for any proposal must be provided in order to allow proper and intelligent consideration and response;
  - Adequate time must be given for consideration and response
  - The decision maker must give conscientious consideration to the responses.
- 12.11. The Building Safety Act 2022 (BSA 2022) introduces fundamental reforms to the law and regulation of building safety, which seek to 'secure the safety of people in or about buildings and improve the standard of buildings'.
- 12.12. The scope and impact of BSA 2022 is far-reaching. Its provisions will affect the design, planning, construction, occupation and alteration of future buildings
- 12.13. The Building Safety Regulator will be responsible for all regulatory decisions during the design, construction, occupation and refurbishment of High Rise Buildings (HRBs) which has been defined pursuant to the legislation as buildings over 18 meters or has at least 17 storeys.

- 12.14. Central to BSA 2022 is the introduction of a new regime to regulate building safety risks for HRBs. The HRB regime comprises building control procedures and building regulations that apply to the design and construction of works involving HRBs, and ongoing regulatory requirements applicable to occupied HRBs. Both phases of the HRB regime (ie the design and construction phase, and the occupation phase) will be overseen by the BSR. The new regime will have cost implications for newly constructed buildings
- 12.15. In December 2022, the government consulted on changes to the Building Regulations 2010, , to mandate a second Staircase in new residential buildings over 30m . In addition the Greater London Authority announced that all planning applications which involve residential buildings over 30m in height will need to be designed to provide two staircases before they are referred to the Mayor of London for a stage 2 referral. The Government has now opted for the lower 18m for the requirement of a second staircase 18 meters. This new mandate has cost implications for many of the Council schemes.
- 12.16. Only the Corporate Director, Finance and Resources or the Director of Property and Assets may acquire or dispose of an interest in land or buildings.
- 12.17. The restrictions placed upon such acquisitions or disposals are set out in paragraphs 11.2, 11.3 of the constitution. The Corporate Director, Finance and Resources or the Director of Property and Assets shall refer all other acquisitions and disposals including matters where the disposal or acquisition value or the length of lease are over and above the restrictions set out in 11.2, or 11.3 of the constitution but below the amounts set out in section 13 to the Cabinet Member with delegated authority or to the Cabinet.
- 12.18. In accordance with 11.2 of the Constitution, The Corporate Director, Finance and Resources may dispose of or acquire freehold land or buildings up to a value, in his or her view, of £1m. The Corporate Director, Finance and Resources may acquire or dispose of leases, licences, and easements in respect of land or buildings except where:
- i. the annual rental value (excluding other outgoings) exceeds £250k
  - ii. if acquired or disposed of at a premium the value would, in his or her view, exceed £1m in value or
  - iii. where the leasehold term exceeds 125 years.
- 12.19. In accordance with 11.3 of the Constitution, where any disposal or acquisition of an interest in land or buildings is, in the view of the Corporate Director, Finance and Resources, of a value over £250k and below £1m, where any leasehold interest has an annual value over £100k or below £250k, or where the lease length is between 50 and 125 years, he or she shall consult with the Lead Member.
- 12.20. In accordance with 11.9 of the Constitution, in acquiring, selling or disposing of any land or buildings or granting any lease, licence or easement in respect

thereof regard shall be had to any relevant Corporate Standards on property acquisitions, management and disposals.

12.21. Section 13 of the Constitution sets out the individual Member delegated decision limits as follows:

Agreement to acquire or dispose of leases, licences, and easements in respect of land or buildings where:

- the annual rental value (excluding other outgoings) exceeds £500k (or does not exceed this figure but is referred by the relevant officer); and
- if acquired or disposed of at a premium the value would in the reasonable opinion of the Corporate Director, Finance and Resources exceed £2m in value (or would not exceed this figure but the Corporate Director, Finance and Resources has decided to refer the decision to the Cabinet Member); and
- the leasehold term does not exceed 125 years.
- the lease, easement or licence is disposed of at less than the best price that can reasonably be obtained and is covered by a general consent, or is not covered by a general consent, in which case agreement will be subject to any specific consent required from the Secretary of State being obtained.

### **13. Equality, Diversity & Inclusion (EDI) Considerations**

13.1. Pursuant to s149 Equality Act 2010 (the “Public Sector Equality Duty”), the Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

13.2. The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

13.3. Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

- 13.4. There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.
- 13.5. Any scheme funded through the GLA is required to meet specified equality, diversity, and inclusion requirements. The Council has received confirmation that all requirements have been met, these are as follows:
- All investment partners must offer equality, diversity, and inclusion training for all employees.
  - All investment partners must implement a zero-tolerance approach to all forms of discrimination, harassment and bullying.
  - All investment partners must broaden recruitment channels and encourage applications from diverse and underrepresented backgrounds.
  - All investment partners must collect and monitor workforce data to benchmark the diversity of their workforce against the local area of their organisation\*
  - All investment partners must publish their gender and ethnicity pay gaps\*
- 13.6. An Equality Impact Assessment (“EIA”) will need to be carried out if Officers recommend the Council should no longer be bound by the South Kilburn Promise and therefore seeks amendment to the Council’s allocations scheme and the local lettings policy. Thereafter the results of the EIA will need to be considered by the Cabinet when it makes a final decision after the consultation process regarding whether to approve the proposed changes to the Council’s allocations scheme. This will assist the Cabinet in meeting its requirement to comply with the PSED when making a final decision on whether to approve the proposed changes to the Council’s allocations scheme. Carrying out an EIA will help to clarify whether any of the proposed changes to the Council’s allocations scheme adversely affect groups with “protected characteristics” under the Equalities Act 2010 and whether actions need to be carried out to mitigate any adverse impact.

#### **14. Climate Change and Environmental Considerations**

- 14.1. The Climate Change Strategy commits the New Council Homes Programme to ensuring Employers Requirements set standards that support the Council’s Zero Carbon ambitions. This will be embedded into the Employer’s Requirements workshop scheduled to take place ahead of the 572 homes built under phase two of the NCHP.
- 14.2. The strategy also requires an exemplar net zero home to use as a benchmark. A scheme in a Green Neighbourhood was previously identified but due to viability and recommendations in this report, single homes will no longer be considered. The Council will review schemes being taken forward to identify opportunities in the pipeline.

#### **15. Human Resources/Property Considerations (if appropriate)**

N/A

## 16. Communication Considerations

16.1 To ensure the Council is being open and transparent with residents, communicating the challenges within the Housing Market is a priority. To ensure residents feel informed, key messages will include:

- The current demand on the Council to meet increase homelessness.
- The options do residents have to access support or find accommodation.
- How the Council trying to influence the market and drive-up affordable housing that reflects need e.g., developing homes and negotiating with developers.
- Residents' rights and responsibilities across different housing tenures.

**Report sign off:**

***Peter Gadsdon***

Corporate Director Resident Services