



**Resources and Public Realm
Scrutiny Committee**
23 April 2025

**Report from the Corporate Director,
Neighbourhoods and Regeneration**

**Cabinet Member for Regeneration,
Planning and Property
(Cllr Teo Benea)**

Build Quality in Brent

Wards Affected:	All
Key or Non-Key Decision:	Non-Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
List of Appendices:	None
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Tanveer Ghani – Director, Property & Assets, Neighbourhoods & Regeneration Tanveer.Ghani@brent.gov.uk

1.0 Executive Summary

- 1.1. The council has a significant portfolio of construction projects relating to new build affordable housing, mixed use developments and facilities for children and young people. These projects vary in scope, size, complexity, cost and sector.
- 1.2. Members are asked to note that the scope of this report focuses on how the council seeks to uphold build quality in new build Council housing, refurbishment of community/social infrastructure and providing facilities for children and young people.
- 1.3. The council, through its various contractual methods monitors build quality through a range of mechanisms and approaches. The report discusses these in relation to pre-construction, handover and building operation across council led schemes, council acquired schemes and development agreements. The report also outlines statutory compliance requirements with respect to Planning and Building Regulations, and implications of the Building Safety Act.

2.0 Recommendation(s)

- 2.1 To note the contents of this report as to how the Council goes about upholding Build Quality within the context of new build Council housing, refurbishment of community/social infrastructure and providing facilities for children and young people.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

- 3.1.1 Delivering build projects can achieve a wide range of council objectives and priorities. There are many of the outcomes of the borough plan that have been and/or currently are being delivered through capital investment. These range from new school places, new council homes and modern community spaces including to libraries, leisure centres, day centres and family wellbeing centres.
- 3.1.2 Maintaining build quality for these types of projects ensures that the council is a trusted delivery partner and that residents, businesses, community organisations and partners can use the buildings (whether new or refurbished) for years to come and make a difference to the residents of Brent.

3.2 Background

- 3.2.1 The council has a significant portfolio of construction related projects with the majority of the spend relating to affordable housing, mixed use developments and facilities for children and young people. These projects vary in scope, size, complexity, cost and sector. In general, projects can be categorised into one of the following three categories:
1. Council Led:
 - a. Refurbishment schemes
 - b. Part new build, part refurbishment
 - c. New build schemes
 2. Open-market acquisitions
 3. Developer Led
- 3.2.2 Council led schemes are where the council is the client / employer and is responsible for contracting directly with construction industry organisations such as designers, contractors and surveyors. The open-market acquisition schemes involve the council acquiring the development from a third party (e.g. s106 affordable homes) and the scheme is delivered to the council. Developer led schemes are where the council and developer enter into an agreement to deliver mutual benefits (e.g. affordable homes for the council, private units for the developer) and will typically involve the disposal of interest in council land.
- 3.2.3 Regardless of the category, there are a number of legislative and regulatory requirements that need to be met including Building Regulations, Planning Regulations and Health and Safety Regulations as well as industry or sector

best practice and guidelines (e.g. Department for Education Area size guidelines for school capital projects).

Council Led Schemes

3.2.4 For council led schemes, the council is the client or employer and is wholly responsible for build quality throughout the life of the project. The council uses the Royal British Institute of Architects (RIBA) Plan of Work which splits the delivery of a project into eight stages (0 – 8). Design work is progressed through stages 0 – 4, construction works during stage 5, handover of the project is stage 6 and stage 7 relates to the building being in use/operation.

3.2.5 Generally, there are two strategies for delivering a capital project, either using a traditional method which involves the client fully designing the scheme to RIBA 4 before appointing a contractor to build the scheme, or a design and build (D&B) strategy where the client designs to a certain point (usually RIBA 3) before appointing a contractor to complete the design and then build the scheme. Figure 1 below summarises this.

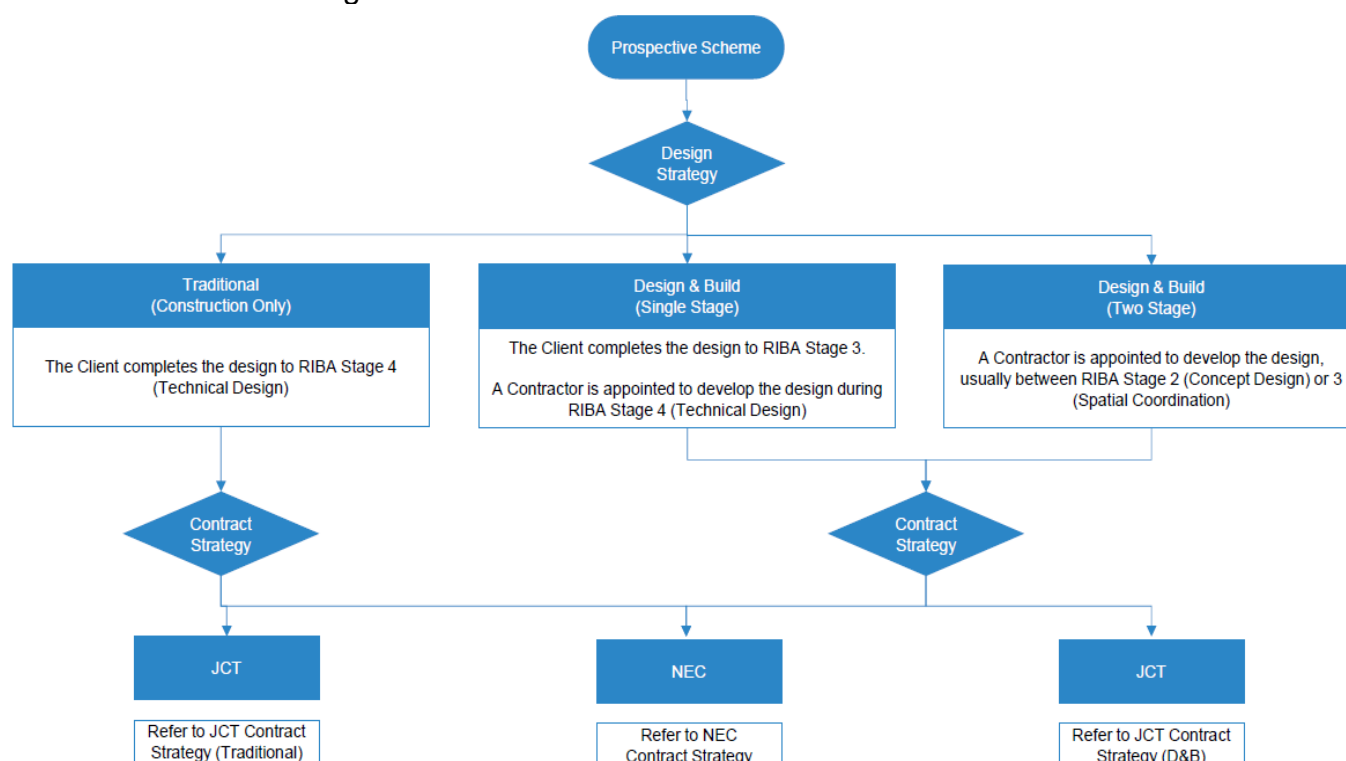


Figure 1 – Summary of Design Strategy Options

3.2.6 Under the design and build (D&B) strategy, a client can either opt for a single stage D&B or a two-stage D&B. A single stage D&B is often used where the design is relatively straight forward and/or really well developed to allow the contractor to fix their design and build cost at tender stage and commence on site with early packages prior to the full design being completed.

3.2.7 A two-stage D&B is often used for more complex projects where the client wishes to pass risk onto the contractor or perhaps where the design is less developed. Here the contractor provides a cost plan for the works and a fixed cost to complete the design in the first stage or pre-construction phase (PCSA).

The contractor then engages with their supply chain to provide a fixed cost at the end of the PCSA to the client for consideration before triggering the second stage to deliver the works. Should the contractor's proposals not meet the council's requirements then the council has the option of not triggering the second stage and can re-procure. Examples of when the council has not triggered the second stage include the school expansions at Byron Court Primary School, The Stonebridge School and Uxendon Manor Primary School.

Pre-construction (RIBA 0 – 4)

- 3.2.8 The council undertakes a number of activities/milestones to ensure high-quality build provision for the schemes it directly delivers prior to commencing construction activities:
1. Appointment of suitably qualified and experienced designers (architects, engineers, surveyors, advisors, Building Safety Act Principal Designer) and consultants (cost consultants, employer's agent)
 2. Obtain necessary statutory approvals (Planning, Building Regulations, Building Safety Act)
 3. Contractor Procurement
 4. Contractual Provisions.
- 3.2.9 The council does not have in-house designers/consultants and therefore procures suitably qualified and experienced organisations. These commissions also set the council's employer's requirements that the contractors will have to meet when designing and/or building the scheme. These appointments are made through competitive opportunities and officers ensure that the successful organisations are vetted prior to appointment for their experience, resources, etc.
- 3.2.10 Once appointed, the consultants and designers will ensure the design of the building/scheme meets the necessary legislative and regulatory requirements as well as any industry guidance and best practice. This includes obtaining Planning Permission and Building Regulations approval prior to starting on site. For schemes that involve High Risk Buildings under the Building Safety Act, the scheme will be taken through the Gateway process and approval from the Building Safety Regulator is required prior to starting on site.
- 3.2.11 In order to build the scheme, the council requires a suitably qualified and experienced contractor. These appointments are made through competitive opportunities such as open tenders, construction frameworks and competitive dialogue and officers ensure that the successful organisations are vetted prior to appointment for their experience, resources, financial strength, etc.
- 3.2.12 Further, the council sets out its contractual provisions and protections (e.g. retention, performance bond, parent company guarantee, ability to claim liquidated damages for delay, step in rights in case of contractor insolvency) prior to entering into the contract with the contractor. These set out the council's position on risk management and protections and ensures the contract sets out

the council's quality assurance requirements as well as providing the employer's requirements to which the scheme is to be built to.

3.2.13 The council also sets out quality control parameters prior to entering into the contract with the contractor. These include any warranty provisions, expected lifespan of items as well as consistency with any industry best practice guidelines. The contract will also set out the enforcement of these standards during the build contract in terms of required sign offs from statutory bodies, system manufacturers and warranty providers.

3.2.14 Larger schemes (e.g. South Kilburn, Wembley Housing Zone, London Road SEND School) have seen the council appoint a Technical Advisory Team or 'Design Guardian' when a contractor is undertaking design work. This team or Design Guardian seeks to ensure the original vision and design intent of the scheme is followed through into detailed design and construction and not diluted. The team or Design Guardian champion quality in the design and build of the scheme, including selection of materials. This role, when it works well can assist in maintaining design quality and consistency throughout a project – but risks of the role include potential for increased costs, delays and conflicts.

Construction Management (RIBA 5)

3.2.15 During the construction stage (RIBA 5), the council monitors build quality throughout the contract and employer's requirements provisions detailed above and receives information on how the contractor is performing via a number of methods.

3.2.16 The council utilises its appointed consultants to monitor contractor performance and progress via design technical advisors or Design Guardian, employer's agent, cost consultant as well as a Clerk of Works. The latter is a specific appointment that attends site frequently and often twice a week to review the contractor's build quality and construction methods. Reports are compiled and shared and action trackers monitored to ensure the contractor closes out concerns/issues raised as well as ensuring they are aware their methods are being monitored.

3.2.17 Alongside the Clerk of Works, the council's other appointed consultants track and monitor contractor performance in relation to the employer's requirements and statutory provisions. Any failure to meet these requirements can lead to non-payment or withholding of funds until suitably rectified through liquidated damages and other contractual mechanisms.

3.2.18 Failure to utilise these resources effectively can leave the council in difficult situations in the future. For example, Granville New Homes will require significant funding to rectify issues with fire safety and water ingress due to poor build quality by the contractor at the time of construction.

3.2.19 Build quality during the works stage can also be impacted by the contractor's financial strength and position. The council contracted with Lakehouse Contracts to deliver the expansion at Uxendon Manor Primary School. During

the contract, the contractor went into administration and so left the council with incomplete buildings to which significant investment was required to complete the buildings in line with the council's requirements. Therefore, the importance of financial surety and protection is important for the council to have in place to recover from any issues with the build progress.

Handover and Operation (RIBA 6 and 7)

- 3.2.20 As the build programme nears the end and the contract parties are preparing for handover of the building(s). This involves obtaining the relevant sign offs for specific building elements (heating systems, fire alarm, building warranties etc.) and these can come from system manufacturers, warranty providers and alike which demonstrates the contractor has constructed/installed in line with the specific requirements.
- 3.2.21 The building will have to be signed off by either Building Control or the Building Safety Regulator if considered a High-Risk Building (i.e. over seven storeys or 18 metres) under the Building Safety Act. This sign off ensures that the building has been assessed to have been constructed in line with Building Regulations. This is the responsibility of the contractor, and the council links the obtaining of this statutory approval to the handover of the building to the council.
- 3.2.22 Further, the Building Safety Act Principal Designer will need to submit evidence and confirmation that the project was completed in line with Building Regulations. This adds another layer of protection to the council that the contractor's work has been assessed in line with the Building Regulations.
- 3.2.23 The building is also snagged (to identify and rectify any issues with the building) and tested and commissioned to identify any issues prior to handover. This assists in identifying any potential operational issues as well as deals with them prior to handover and occupation. The contractor will also handover / transfer to the council details on the building, its components and how to maintain and operate the building for its expected lifespan. This information is used by the building operator to manage and maintain the building to prevent any deterioration to the building caused by misuse or a lack of aftercare.
- 3.2.24 Once all the necessary sign offs (including statutory) are in place and confirmation that the building has met the council's employer's requirements, then practical completion can be achieved, which means the building is handed over to the council to occupy.
- 3.2.25 Contractually, the council withholds a percentage of the contract sum as retention. This is typically between 3 and 5 per cent and this incentivises the contractor to ensure delivery of the contract. Half of this retention is released at practical completion with the remainder scheduled for release upon successful completion of the defects liability period which is typically 12 months from practical completion.
- 3.2.26 During this defects liability period, the contractor monitors the building's performance and if any issues arise, the contractor is responsible for rectifying

in this period. Upon successful completion of the defects liability period, the contractor is paid their final retention figure and the contract comes to an end.

3.2.27 Despite the contract ending, the contractor is liable for any latent defects. These are defects that appear at a later date and often take time to manifest themselves. These are usually 6 – 12 years, depending on how the contract was executed. However, the Building Safety Act has enacted changes to the Defective Premises Act 1972 and Limitation Act 1980 by extending the liability for dwellings completed before 28 June 2022 to 30 years and 15 years for buildings completed after 28 June 2022.

3.2.28 Once the building is built, the assessment of build quality does not stop there. The contractor provides information on the operation and maintenance of the building and the council ensures that its maintenance contractors adhere to the recommendations and requirements to ensure buildings are kept of a high quality for the building's expected lifespan.

3.2.29 The council also undertakes post-occupancy evaluations and assessments to ensure the building is doing what it is expected to. This can also be part of any certification received for the building (e.g. BREEAM). Consultees can include the occupiers/tenants to obtain end-user feedback on how the building is performing.

3.2.30 The council concludes the project delivery by completing a project closure report which includes any lessons learned during the project's delivery which can be applied for any current and future projects.

Acquisitions

3.2.31 Recently, the council has acquired buildings from external organisations to assist in meeting council housing needs and house building targets. This has included the acquisition of affordable homes from Developers either as part of their section 106 agreements to provide affordable homes, or straight acquisition of what would otherwise have been delivered as private housing. Examples of recent acquisitions include Grand Union Phase 2 (115 homes) and Fulton Road (294 homes) both of which will handover in 2025/26.

3.2.32 On these schemes, the council is not directly responsible for any of the build quality requirements as these are the responsibility of the Developer and their appointed consultants and contractors. However, the council does employ its own Employer's Agent and Clerk of Works to monitor the Developer's contractor and construction progress and reports to the council who in turn raises any issues with the Developer.

3.2.33 On these schemes, the council ensures that all necessary statutory approvals and warranties, etc. are in place prior to agreeing to taking handover and occupying the scheme. Any final payments due to the Developer are not processed until satisfactory completion and receipt of all necessary information is in place.

Council led schemes delivered through Development Agreement

- 3.2.34 The remainder of the South Kilburn Regeneration Programme will deliver developments across 8 sites over a period of 10 -15 years. The model of delivery is through a Development Agreement as opposed to Direct Delivery discussed above. The Council will be entering into a long-term agreement based on partnering principles which promotes collaboration between the parties and has the flexibility and resilience to adapt over the term of the agreement.
- 3.2.35 The agreement covers a wide remit of development matters such as viability, master planning, phasing, estate management, value uplift etc, and although commercial it is not a narrow transactional arrangement between a client and a build contractor.
- 3.2.36 The Council sets out its vision and objectives for the Programme including focus on design and build quality and produces a design and master planning framework which broadly aligns with RIBA 0-1 level of design development. This is then shared with the bidding developers through the tendering process and series of dialogues sessions are held to essentially align the vision and objective of the two parties (Council and Developer) alongside testing their capabilities, capacity and demonstrable experience, track record including ability to build well.
- 3.2.37 The Development Agreement is entered into based on a shared understanding of the vision and objectives of the Programme. Once in contract the Development Management team of the Partner, however accountable to the Council will progress the designs up to RIBA Stage 4 and undertake the activities described in paras. 3.2.8 – 3.2.10. This process crucially enables early input of the build contractor and their supply chain in real time safeguarding the quality of build and design whilst maintaining Council's ability to input, shape and influence the design development.
- 3.2.38 The construction is then carried out (typically) by the Development Partner's construction arm, the capabilities and experience of whom is tested as part of the tendering process of the Development Partner. The protections described in paras 3.2.12 above are incorporated in the Development Agreement to ensure the full suite of statutory and regulatory requirements and the rigour of a Design and Build contract is maintained.
- 3.2.39 During this period and throughout the term of the Agreement the Council will typically retain consultant advisory services including quality assurance services of Employer's agent and Clerk of works akin to the process described in paras 3.2.14 – 3.2.17 above. This provides an additional layer of assurance independent of the Developer's own quality assurance processes.
- 3.2.40 Crucially in a long – term partnership arrangement the performance of a Development Partner including quality of their build is continually monitored and development sites are released incrementally and based on their performance at the previous phase(s), this incentivises positive behaviours.

4.0 Stakeholder and ward member consultation and engagement

- 4.1 Stakeholders such as building users are updated on capital project progress throughout the project's life. This includes consultation events, engagement as well as involvement in post occupancy monitoring.
- 4.2 Ward Members are kept up to date on project progress, including any significant milestones such as planning applications and completion dates.

5.0 Financial Considerations

- 5.1 There are no specific financial considerations relation to the proposals within this report. However, the council has a significant capital portfolio of which is funded through various grants, receipts and £900m of council borrowing.
- 5.2 Failure to achieve the required build quality can lead to significant costs both during and after the scheme's delivery. Delays to obtaining the necessary build quality can increase the cost of a capital project through increased maintenance, potential legal recourse with contractors and developers and delays to generating benefits of the project (e.g. delays to moving in tenants and generating rental income). Avoiding unnecessary additional costs is particularly vital at the current time because high interest rates already having a significant impact on the viability of capital projects.

6.0 Legal Considerations

- 6.1 When delivering capital build schemes, the council needs to follow its own contract standing orders and constitution when procuring and awarding contracts.
- 6.2 The council makes use of the JCT and NEC suite of contracts when delivering its schemes. These contracts come in a standard form and the council, alongside its advisors provide a number of amendments to reflect the project's requirements as well as strengthen the council's position where necessary.
- 6.3 The Building Safety Act 2022 has brought in new requirements when ensuring the quality of building projects. These include new duty holder positions of which the council is the client and needs to appoint a Principal Designer and Principal Contractor. Each role has specific requirements and duties and the council needs to be aware of its requirements and duties and ensure that any appointed roles demonstrate suitable experience and qualifications to complete the required role.
- 6.4 In the developer led schemes, the council will prepare a first draft of the development agreement which forms part of a suite of documents which comprise the procurement documents. The development agreement will contain all of the provisions referred to in paragraph 3.2.12 to provide protection for the council. The Development Agreement also refers to the approved design and the detailed planning permission which the Developer has to comply with.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

- 7.1 There are no direct EDI considerations for this report, but the council delivers projects for some of its most vulnerable residents and so the impacts of not achieving high build quality could impact on residents with protected characteristics.
- 7.2 Further, any poor-quality build could lead to impacts to user's health, either through the building not operating effectively or exposing users to unnecessary stress and concern due to having to occupy a poor-quality building.

8.0 Climate Change and Environmental Considerations

- 8.1 None

9.0 Human Resources/Property Considerations (if appropriate)

- 9.1 None

10.0 Communication Considerations

- 10.1 None

Report sign off:

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Regeneration