

**MUNICIPAL YEAR 2018/2019 REPORT NO.****135****MEETING TITLE AND DATE:**

Cabinet: 23 January 2019

**REPORT OF:**

Executive Director – Place

Contact officer &amp; telephone number:

Samuel Aligbe 020 8279 8106

Email: [samuel.aligbe@enfield.gov.uk](mailto:samuel.aligbe@enfield.gov.uk)**Agenda – Part: 1****Item: 9****Subject: Small Sites Housing  
Development Update 2019****Wards: All****Key Decision No: KD 4789****Cabinet Member consulted:  
Cllr Nesil Caliskan****1. EXECUTIVE SUMMARY**

- 1.1 Enfield Council's Corporate Plan 2018-2022 includes a commitment to deliver "good homes in well-connected neighbourhoods" by increasing the supply of genuinely affordable housing across all tenures. The Mayor of London wants small sites capable of delivering up to 25 homes to play a greater role in new housing supply. The Council's Local Plan out to consultation is proposing an annual target of 980 homes per annum.
- 1.2 One aspect of the Council's current circa 5,000 home estate renewal and housing development programme is the development of 'small sites' into circa 140 homes. The 'Small Sites' programme aims to bring underutilised council property into good use, increase the numbers of affordable homes in the Borough, deliver family sized accommodation, and provide a financial return to the Council.
- 1.3 This 'Small Sites' programme was initiated in July 2012 (KD 3517) and is along with Dujardin Mews the first time in many years that the Council has directly led new house building in Enfield.
- 1.4 Phase 2 of Small Sites comprised 13 homes for private sale, all of which have now been bought subject to contract by local people, which generate a £2m capital receipt to cross-subsidise new council homes at Ordnance road.
- 1.5 Phase 1 of Small Sites comprises 94 homes across seven sites, with 22 completed to date. 37 homes are Enfield affordable rent, 16 homes are shared ownership/shared equity and 41 homes are for outright sale. These homes, which started on site in 2014, have been delayed following collapse of a key sub-contractor.
- 1.6 In 2017, the Council (KD 4298) renegotiated the Small Sites Phase 1 contractual arrangements so that the Council and Enfield Innovations Limited entered into two separate tri-partite agreements to complete the seven sites. An additional budget was approved from the Housing Revenue Account to complete construction of the homes.

- 1.7 Since re-commencement of construction, 22 homes have been completed. The remaining 72 are due to complete in Summer 2019.
- 1.8 This report seeks authorisation to approve the additional budget as set out in Part 2 of this report to bring the scheme to a conclusion. The 'Small Sites' programme continues to return a positive Net Present Value (NPV) to the Housing Revenue Account.
- 1.9 To note that Officers will pursue the contractor for liabilities for which they are potentially liable.

## **2. RECOMMENDATIONS**

It is recommended that Cabinet:

- 2.1 Approve the additional budget as set out in Part 2 of this report to complete the remaining sites. This will not require any additional HRA borrowing.
- 2.2 Delegate to Executive Director of Place authorisation to spend the additional budget to complete the six remaining small sites set out in Part 2 of this report.
- 2.3 Delegate authority to renegotiate if necessary the loan agreement between Enfield Innovations Ltd. and Enfield Council to the Executive Director of Resources.
- 2.4 Note that the "Small Sites Phase 1" continues to positively contribute to the Housing Revenue Account.
- 2.5 Note that officers continue to negotiate on claimed costs with the two contractors, and that final costs will not be agreed with the contractors until after the homes are completed, as is standard practice.
- 2.6 Note that the Small Sites 1 programme will provide 94 homes for local people. 37 homes are for Enfield affordable rent, 16 homes are shared ownership/ shared equity and 41 homes are for outright sale.
- 2.7 Instruct officers to carry out a comprehensive "lessons learnt evaluation" to take forward to future small sites schemes and report to Scrutiny by April 2019.

### **3. BACKGROUND TO THE SMALL SITES PROGRAMME**

#### **3.1 New Contractual Arrangements from October 2017**

3.1.1 In 2017, the Council (KD 4298) renegotiated the Small Sites Phase 1 contractual arrangements so that the Council and Enfield Innovations Limited (EIL) entered into two separate tri-partite agreements to complete the six remaining sites with certain liabilities sitting with the Council. Under the old contracts EIL were paying all the interim monthly payments but under the new contracts the Council agreed to take on the interim payments which meant the Council took on certain legally vetted and agreed project, programme and prolongation risks, planning and design risks and also the supply chain risk for the timber frame panels on Phase 2 once taken out of storage. The Council approved an additional budget from the Housing Revenue Account (HRA) to complete construction of the homes. The six uncompleted site locations are dispersed across various locations in the borough requiring extra management and coordination with each site having its own individual challenges. Furthermore the splitting of the project into two phases has added further complications to the overall management of the project as a whole.

3.1.2 The new contracts were negotiated by the Council and its legal advisors (Browne Jacobson) and with Kier and AMCM and their respective legal advisors. The Cabinet approved the new arrangements in July 2017.

The new contracts were signed for both phases at the end of October 2017 with completions set for early 2019 and the contractual arrangements were as follows:

- Phase 1 – A tri-partite agreement for the varied Development Agreement between EIL, the Council and Kier with AMCM as main sub-contractor. Kier replaced Airey Miller Partnership with Turner & Townsend as their Employer's Agent (EA) and Mott Macdonald was appointed as the Council's own Client Representative under an existing global appointment agreement. John Burke Associates (JBA) was appointed as Clerk of Works to monitor quality for the Council.
- Phase 2 – A tri-partite agreement for the disaggregated sites between the Council EIL and the JCT D&B contractor, AMCM with Mott MacDonald as EA. JBA was appointed as Clerk of Works to monitor quality for the Council.

3.1.3 After the contracts were signed there was a period of mobilisation by the contractor when first orders were placed and site accommodation set up at the end of 2017 and works began in earnest at the beginning of 2018.

### **3.2 Relevant Events from October 2017**

- 3.2.1 Discrepancies in the designs priced by AMCM began to come to light early in 2018 after start on site. Despite these being challenged, works progressed throughout 2018 and attempts to resolve the position including through revisions to planning policy. Nevertheless, cost overruns materialised. In addition unforeseen problems were encountered with mould arising on plasterboards.
- 3.2.2 The contractor first indicated that the situation was serious enough that all sites would be delayed significantly until June 2019 rather than completing on a phased basis in early 2019. The project team immediately requested confirmation of the associated costs but these cost overruns could not be confirmed immediately as it takes time not only for their full extent to come to light but also time to assess their full impact and then validate them. Some costs are still currently being calculated across all sites by the contractor although reliable estimates have been provided and where possible some costs confirmed. The cost overrun claims have not yet been accepted because all financial and prolongation claims being made by the contractor (AMCM) must first be checked and validated by Mott MacDonald to check their legitimacy and rejected if there are any discrepancies. This process is still in progress and will take time whilst documentary evidence to support their claims is requested by Mott MacDonald and submitted by the contractor.
- 3.2.3 The overall cost for the project agreed by Cabinet in July 2017 is likely to be exceeded and the current cashflows mean that there will not be the authority in place to make the required payments to Kier and AMCM for both phases after January 2019. To avoid going back into dispute with the potential to incur significant further costs, a revised worst case budget to cover the potential cost overruns needs to be approved. Therefore the project team, advised by external consultants, have put together a Risk Register (included in Part 2 of this report) will all potential extra costs in order to make sure that this time any approved budget is not exceeded again.

### **3.3 Relationship with EIL**

- 3.3.1 EIL as a named party has an interest in that their continued existence relies upon the sale of the 57 market properties. Therefore they have been involved in the project management of those sites with market sale properties to manage the finishes variations to make them more marketable and appoint a sales agent (Savills) plus ensuring that all the necessary documentation is provided in order to market the properties and sell them.
- 3.3.2 The HRA has bought 17 of the already completed homes from EIL in Parsonage Lane and St Georges Road using RTB receipts and HRA funding. These properties are being let at the Enfield affordable rent.

- 3.3.3 EIL covered the initial cost of the project before the contracts were renegotiated but are not liable for construction cost overruns as the Council accepted all liabilities and forward payments upon entering into the current contracts in order to protect EIL's continued existence.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 In the circumstances halting construction completely would be counter-productive as unfinished structures could once again become weather damaged and warranties invalidated (reducing their saleability and value) and delay cashflow further. The existing investment would likely be wasted and there would be significant reputational damage.
- 4.2 The council could halt work on some sites to stay within the existing budget and complete others to generate some positive cashflow on completed units but that would still leave unfinished sites with a risk of weather exposure, security issues and costs and other associated costs. These would still need to be completed later with associated market prices increases, delayed cashflow on those sites and a danger of the loss of warranty cover. Again there would be significant reputational damage. If the Council tried to sell the uncompleted sites there is a danger costs may not be covered.
- 4.3 It is considered the best course of action is to continue to negotiate on the cost liabilities and achieve an asset that will provide much needed housing, improve the built environment and that will recover costs to date.

#### **5. REASONS FOR RECOMMENDATION(S)**

To continue with construction, recover costs to date where possible and build much needed homes for Enfield residents.

#### **6. COMMENTS FROM OTHER DEPARTMENTS**

##### **6.1 FINANCIAL IMPLICATIONS**

A full analysis and appraisal has been carried to assess the current position when taking into account the worst case scenario in terms of any extra costs and to assess all potential further risks and their impact to ensure that the project will remain viable in all foreseeable circumstances. A more detailed account is included in Part 2 of this report.

## **6.2 LEGAL IMPLICATIONS**

See Part 2 of this report.

## **6.3 PROPERTY IMPLICATIONS**

There are no direct property implications for this report and its recommendations. However, it should be noted that any disposal of assets belonging to the Council need to be undertaken in line with the Council's Property Procedure Rules, and relevant legislation, which is s.123 Local Government Act 1972 for General Fund disposals, and The General Housing Consents 2013: section 32 of the Housing Act 1985 for Housing Revenue Account disposals. The Council also has a Corporate Landlord Policy which applies to all corporate assets.

## **7 KEY RISKS**

7.1 The private sales income is high risk as we may not achieve the expected sales. The future housing market is unknown and the impact of Brexit could result in a reduction in property values or substantial increases in the time required to complete the sale of the properties. In the event, that sales values are not as expected or the properties cannot be sold as quickly as expected EIL will be unable to meet its loan obligations. To mitigate this risk, EIL and LBE will if necessary renegotiate the loan agreement between the two parties to provide additional time for the properties to be sold. The renegotiation will be subject to relevant legal advice and this will be done before March 31st March 2019 but only called upon if the events listed above materialise.

7.2 There is a risk that future unknown costs may arise that would be outside the contingency allocated. However, the consultant (Mott MacDonald) has produced a comprehensive risk register to cover all possible risks that can be reasonably anticipated and they have calculated the worst case scenario for the potential related costs of each risk. (See attached Client Specific Risk Register). Any further delays in the construction will add to the prolongation costs

7.3 These extra risks are all being tracked and mitigated by the risk register established by Mott McDonald and this looks at all potential relevant events and factors in worst case scenarios. See Part 2 of this report for the financial implications.

## **8 IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD**

### **8.1 Good homes in well-connected neighbourhoods**

The new homes replace formerly underutilised garage sites and hard to let, obsolete and unpopular sheltered accommodation to provide a range of housing including affordable homes for couples, families and wheelchair users and better meet the needs of the community. The quality homes built to high GLA housing standards are on sites in the heart of well-established communities with a good range of local amenities close by.

## **8.2 Sustain strong and healthy communities**

The development of the sites contributes to this priority by building stronger and sustainable futures for our residents with a range of dwelling sizes and tenures to cater for different needs. The new spacious, energy efficient homes and better built environment will support children with their educational needs. All affordable homes will meet the housing needs of residents on lower incomes, including aids and adaptations for eight dwellings to enable residents to retain independence and remain within the community.

## **8.3 Build our local economy to create a thriving place**

The development of 94 for homes for residents improves community resilience, social cohesion and health and wellbeing. The multiplier effect of housing development and the creation of new homes encourages local economic development.

## **9 EQUALITIES IMPACT IMPLICATIONS**

The overall scheme has been subject to an EIA.

## **10 PERFORMANCE AND DATA IMPLICATIONS**

There are no additional implications arising from this decision.

## **11 HEALTH AND SAFETY IMPLICATIONS**

There are no additional implications arising from this decision.

## **12 HR IMPLICATIONS**

There are no additional implications arising from this decision.

## **13 PUBLIC HEALTH IMPLICATIONS**

Provision of good quality, energy efficient homes of various tenures meets diverse housing needs in the community, boosting health, wellbeing and life chances

**Background Papers**

As per Part 2 of the report