

## London Borough of Enfield

### Operational Report

Report of Joanne Drew Housing and Regeneration Director

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**Subject:** 263 Bullsmoor Lane

**Executive Director** Sarah Cary

**Ward** Turkey Street

**Key Decision:** KD 5285

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#### Purpose of Report

1. This report seeks to approve the expenditure of £7.749m against the £7.75m capital budget allocated to 263 Bullsmoor Lane in the HRA Business Plan.
2. Approval of this decision will allow design, planning and consultation activities to progress with the aim of submitting planning application December 2021.

#### Proposal(s)

3. Approve the expenditure of £6.049m in addition to £1.7m already spent in 2019/20 against the allocated £7.75M from the HRA to fund the development of up to 31 residential units on the 263 Bullsmoor Lane site to be applied as follows:
  - a. On the Employer's Agent, cost consultancy, project management and clerk of works throughout the duration of the scheme. The Employer's agent, cost consultancy and project management are proposed to be procured via the Crown Commercial Services framework or other framework agreement in consultation with the procurement team. These awards are subject to further approval reports via the procurement team.
  - b. On-cost, including planning application, internal project management at 1.4% of scheme costs and contingency of 10% which is £493,302.
  - c. The full design services and construction through to post occupation, including the defects liability period. This is proposed to be procured via an LHC Modern Methods of Construction Framework in consultation with the procurement team. These awards are subject to further approval reports via the procurement team.
  - d. The demolition and enabling works including all the surveys required to de-risk the site.
4. Approve the strategy to procure a Turnkey contract under proposal 4(c) for a JCT Two Stage Design and Build contract via the LHC Modern Method Framework Agreement or another compliant framework agreement in consultation with the

procurement team, for an estimated contract value of £4.933m for an 18-month contract period.

5. Approval to progress the community consultation, which is required to submit the planning application for the scheme and ongoing consultation as the scheme progresses.

### **Reason for Proposal(s)**

6. The proposal is to develop the site using modern methods of construction to create up to 31 affordable new homes and improvements to public realm
7. The development will provide much needed affordable housing up to 31 new homes including up to seven (twenty three percent) family units.
8. The number of units will be reviewed and assessed as the scheme progresses through the design and planning process.
9. The design and planning proposals will be prepared in consultation with the community. It is anticipated that an application will be submitted December 2021.

### **Relevance to the Council's Corporate Plan**

10. The scheme delivers on the priorities of the 2018-2022 Corporate Plan, "Creating a lifetime of opportunities in Enfield", by providing Good homes in well-connected neighbourhoods. Located in the Turkey street ward it is a scheme that will serve to improve the housing offer and the quality of the environment.
11. In approval of the following authority reports for its housing development programme, the Council recognised the role it can play in increasing housing supply in the borough – both in its role of directly delivering new build homes (or acquiring them for affordable rent) and in enabling the delivery of homes by housing associations, developers and private landowners:
  - a. Better Council Homes Workplan and Budgets 2019/20 (KD4830)
  - b. HRA 30-year Business Plan 2020 (KD4969)
  - c. the Housing and Growth Strategy (KD4841)
  - d. Better Council Homes (KD 5219)
  - e. Capital Strategy & Capital Programme (KD5210)
12. The scheme currently proposes the delivery of up to 31 homes at London Affordable Rent. This will increase the supply of council housing in the borough. The homes will be delivered to the highest possible standard and so providing quality housing options for residents.
13. Infrastructure investment is a key component of the scheme. The development will create a new vehicular entrance into the site and improve existing highway layout making it clear, defined, and with safer pedestrian access. These works are included in the cost estimate.

### **Background**

14. This proposal includes the demolition of the existing single storey chalet bungalow on site, which was acquired with the site and will be demolished to provide up to 31 residential affordable homes
15. The Council purchased the land recently with a planning consent (17/05227/FUL) for the redevelopment of this site; however, the Council does not intend to build out this consent, because the Council believes that the site can be optimised to provide more homes.

16. To deliver a high-quality planning compliant scheme of up to 31 units using modern methods of construction to achieve an exemplar, sustainable and low carbon scheme.
17. It is proposed that the Council submits a detailed planning application December 2021.
18. The Housing Development team is proposing to consult with the community over the next few months, and over the duration of the design and construction.

### **Main Considerations for the Council**

19. Already agreed as part of the HRA 30-year Business Plan, the delivery of Bullsmoor Lane is one of the schemes that delivers the objectives of the Housing and Growth Strategy 2020-2030 and Council's development delivery strategy milestones.
20. The maximising the Council's Direct Development Delivery report (KD 4998) and the Better Council homes report (KD 5219) sets an ambitious direct delivery/acquisition programme of 3,500 Council owned homes over the next 13 years funded from within the HRA business plan.
21. As shown in the following project plan, there is need to progress the development to maintain GLA funding:

<b>Project Milestones</b>	<b>Indicative timeline</b>
Investment Decision DAR (implementable)	31 <sup>st</sup> May 2021
Contractor Procurement (Issue ITT)	30 <sup>th</sup> April 2021
Contract Award DAR Stage 1 PCSA (Pre- construction service agreement) and stage 2 construction contract	30 <sup>th</sup> June 2021
Contract Signed PCSA	31 <sup>st</sup> July 2021
Award Demolition and enabling works contract	15 <sup>th</sup> July 2021
Planning Submission	30 <sup>th</sup> Dec 2021
Planning Consent	30 <sup>th</sup> March 2022
Contract Signed (Construction stage 2)	30 <sup>th</sup> April 2022
Start on Site & Grant Draw Down deadline	September 2022
Practical completion and balance of grant drawdown	30 <sup>th</sup> Nov 2023

22. The current proposals for the development comprise the delivery of 31 new homes. These will be set at London Affordable Rent (LAR) levels. The total number of units and tenure mix delivered are subject to on-going discussions with the Local Planning Authority and to viability based on market conditions. The percentage of family homes will be set via the planning process. The feasibility mix below shows 22% family housing which reflects the flatted development proposed as suitable accommodation close to the A10.

Housing Type	Size	LAR
1B2P	51m2	14
2B4P	70m2	10
3B5P	86.7m2	7
<b>TOTAL</b>	<b>N/A</b>	<b>31</b>

23. The estimated total scheme costs is £7.749m, breakdown below, slightly under the budget of £7.75m approved by Council 2nd March 2021.

Total Construction Costs	£4,933,020
Land Acquisition Fees	£1,700,000
Fees and other costs	£1,116,306
<b>Total budget capital cost</b>	<b>£7,749,326</b>

23. Based on indicative cost assumptions, the scheme's performance against financial benchmark are as follows as assessed against Hurdle rates approved by Cabinet 12th Feb 2020:

	Scheme Hurdle Rates	Enfield's Hurdle Criteria*
Build cost per property	£250K	250K
NPV per property	£11K	-£50k
IRR	4.06%	3.50%
Loan repaid in year	28	40

\* Approved Cabinet 12<sup>th</sup> Feb 2020, Item 12 "Maximising Council's Direct Development Delivery"

### Safeguarding Implications

24. Nil

### Public Health Implications

25. Housing is fundamental to human health as evidenced by the fact that the life expectancy of a homeless person is over 30 years shorter than that of the general population of England and Wales. Housing can also influence health through its effect on active travel, social mixing by design, climate (the energy needs of the house) and build quality. The construction of additional housing is therefore encouraged within the above parameters.

### Equalities Impact of the Proposal

26. The Public-Sector Equality Duty (introduced by the Equality Act 2010) places a duty on local authorities to have due regard, in its decision making to; eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act
27. Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it

28. Foster good relations between people who share a relevant protected characteristic and those who do not share it.
29. This duty applies to all decisions relating to services, policies or functions and the implementation of those decisions, made by the council.
30. Whilst the decisions sought in this report are not directly relevant to the Public-Sector Equality Duty the scheme to which they relate is, including consultation with residents and the procurement of relevant contracts.
31. A full EQIA on the proposed scheme to identify and mitigate any negative impact on people sharing protected characteristics and those who do not will be carried out, and every opportunity will be taken to meet the aims of the Public-Sector Equality Duty.
32. Equality considerations will be included in our procurement strategy to promote the council's equality aims and meet the requirements of the Public-Sector Equality Duty.

### **Environmental and Climate Change Considerations**

33. The development will have to comply with the London Plan and so demonstrate that proposed climate change mitigation measures comply with London Plan energy policies, including the energy hierarchy. It also ensures energy remains an integral part of the development's design and evolution.
34. The development will have to demonstrate how the zero-carbon target for residential developments will be met, with at least a 35% on-site reduction beyond Part L 2013 and proposals for making up the shortfall to achieve zero carbon, where required.
35. An assessment of energy provision on the site will be undertaken as part of the design development
36. An energy/carbon emissions reduction assessment will be completed for the scheme by the appointed engineer as part of the planning submission.
37. The Modern Method of Construction approach will allow the development to achieve low carbon emission, less consumption of materials, reduced waste on site and fewer construction vehicle trips.
38. Environmental impacts of site maintenance/management regimes will be considered as proposals are finalised. This will include bin storage and waste collection routes, surface water drainage systems and public realm cleansing. Any potential environmental impacts and mitigation measures will be highlighted in the planning submission.
39. The impact of climate change will be considered as part of the energy strategy and will include over heating calculations that will take account of future climate change impacts. Future climate change impacts will also be considered as part of the Sustainable Urban Drainage Strategy.

### **Risks that may arise if the proposed decision and related work is not taken**

40. The key risk would be the missed opportunity to develop additional affordable homes
41. Exemplary sustainable modular homes with low carbon.
42. Rented homes that are within the Council's financial parameters.

**Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

<b>Risks</b>	<b>Likelihood &amp; Impact</b>	<b>Mitigation</b>
43. This project is a pilot MMC development, so Planning constraints and requirements could delay planning submission	H	A PPA with the LPA for the scheme should assist in working through any planning constraints and enable a timely submission of a compliant and viable scheme.
44. That build costs could rise excessively prior to starting on site on this scheme.	M	A Quantity Surveyor's review and assessment will be completed as design is developed to ensure costs have been correctly benchmarked against current market trends.
45. Community and Stakeholders objection to development.	M	Effective consultation with wider community as design develops will ensure that that all the relevant Stakeholders can feedback on the design.
46. Risk of uncertain market conditions due to Brexit and COVID 19	L	This is mitigated by developing affordable product with GLA funding
47. Underground obstructions/contaminated ground could delay and/or make the scheme unviable to deliver.	M	Adequate site investigations will be commissioned to de-risk the site.

**Financial Implications**

48. Approved budget assumes total scheme cost £7.75m for 31 units, all to be let at London Affordable Rent in return for grant. Total scheme cost estimated £7.749m, £1k under approved budget, which forms the base case.

49. Base case, referenced in the report is viable as it meets approved HRA hurdle criteria. Stress testing indicates the scheme is sensitive to cost increases or a lower grant award.

50. Impact on budgets, debt and taxation are also provided as part of the review of financial implications.

Viability

51. Base case indicates scheme is viable overall except for cost per unit which is slightly higher than hurdle rate.

52. Base case NPV per unit and IRR are £11k and 4.06% respectively which meet hurdle criteria of -£50k and 3.5%

53. Stress testing indicates the overall viability is compromised if there is an increase of 10% in total scheme costs: NPV per unit would fall from a positive £11k per unit to -£11k per unit (reduction of £22k per unit) although still meeting the Hurdle rate; both IRR and payback would deteriorate below Hurdle rates
54. Alternatively, a reduced grant award of £75k per unit (down £25k from £100k per unit assumed in Base case) would erode all IRR and payback to below Hurdle criteria whilst still meeting the NPV criteria
55. These risks, which have been acknowledged, will be addressed by the Housing Development Team as part of the design process to ensure project remains within Hurdle Criteria.
56. Results of stress tests are given in table below, marked "Met" or "Not met":

Stress tests (£'000s)	HRA Hurdle rates*		London Affordable Rent	
	Cost per unit			
<b>Base</b>	Cost per unit	250	250	Met
	NPV / unit	-50	11	Met
	IRR	3.5%	4.1%	Met
	Debt repaid	30	28	Met
<b>TSC +10%</b>	Cost per unit	250	270	Not met
	NPV / unit	-50	-11	Met
	IRR	3.5%	3.0%	Not met
	Debt repaid	30	33	Not met
<b>Grant per unit -£25k each</b>	Cost per unit	250	250.3	Not met
	NPV / unit	-50	-14	Met
	IRR	3.5%	2.9%	Not met
	Debt repaid	30	34	Not met

\*Hurdle criteria approved by Cabinet 12th Feb 2020

57. Appendix A provides detailed results

#### Budget – Capital & financing

58. Approved budget: £7.750m for 31 units
59. Revised estimate: £7.749m for 31 units
60. Resulting capacity: £0.001m to be held in budget, released as required
61. Borrowing requirement in line with budget assumption in base case

Capital financing £m	Approved budget	Estimate	Variation
Total cost	7.750	7.749	-0.001
GLA Grant	-3.100	-3.100	-
Borrowing required	4.650	4.649	-0.001

## Budget – Revenue

- 62. Rental income – unchanged at published LAR rates
- 63. Interest cost – in line with approved budget assuming at 3½%

## Debt & Borrowing

- 64. Approved budget £4.650m
- 65. Revised estimate £4.649m
- 66. Resulting capacity £0.001
- 67. Marginal reduction in borrowing as a result of slightly lower cost estimate in base case

## Taxation – Residential units

- 68. VAT - Construction costs exempt; rental income is zero rated
- 69. Stamp Duty Land Tax (SDLT) - payable at higher rate where more than one property acquired; not applicable to this scheme
- 70. No adverse VAT implications identified

## Taxation - Commercial units

- 71. Construction costs subject to standard rated VAT; rental income exempt
- 72. VAT - Authority unable to recover VAT incurred in cost of construction unless Option to Tax exercised before development commences.
- 73. Exercising Option to Tax has the effect of adding standard rated VAT on commercial rents and enabling Authority to recover VAT incurred in construction of the related commercial units
- 74. No commercial units therefore outside scope – for completeness only

## **Legal Implications**

- 75. The Council has a power under section of the 111 Local Government Act 1972 to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions The Council also has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals generally may do, provided it is not prohibited by legislation and subject to public law principles The recommendations set out in this report are consistent with the Council's powers and duties.
- 76. The proposals in the report will lead to the award of an above threshold public works contract under the Public Contracts Regulations 2015 (PCR 2015). The Council must therefore ensure that it complies with Part 2 of the PCR 2015 and the Council's Contract Procedure Rules (CPRs) prior to the award of the contract for stage one. Calling off from an existing Framework agreement is in accordance with regulation 33 PCR 2015 and the CPRs. However, a due diligence exercise must be carried out by the Procurement and Commissioning Hub (P&C Hub) prior to calling off from a Framework and the Council must be



clearly identified as a contracting authority able to use the Framework when the Framework was set up.

77. Regulation 33(6) PCR 2015 provides that contracts based on frameworks may under no circumstances entail substantial modifications to the terms laid down in that Framework. Consequently, the contract award must be in accordance with the process set out in the Framework agreement and the terms of the call off contract (via mini competition or direct award) must be consistent with the framework terms.
78. In a two-stage tender, the employer will engage the contractor for a fixed fee for stage one (the pre-construction services stage). Once selected, the contractor will only submit the lump sum price for stage two (the construction stage) at the end of the pre-construction services stage. Prior to the award of the pre-construction services contract, the Council must be mindful to ensure that the contractor does not have the leverage to renegotiate the second stage contract price or contract terms during stage one in a manner that would amount to a substantial modification of contract under regulation 72 of the Public Contracts Regulations 2015. To mitigate against this risk, the Council should ensure that the pre-construction services particulars set out in clear, precise and unequivocal review clauses the criteria under which the contractor must derive its second stage tender, including the form of second stage contract (and any conditions for the amendments of the terms).
79. The contract must be in a form approved by Legal Services for and on behalf of the Director of Law and Governance. The report for the award of the contract must comply with the Key Decision process. Both contracts should be executed under seal. It is advised that the stage one contract should be executed under seal if the value is above the Key Decision threshold or if the contractor will have design liability thereby increasing the limitation period to 12 years. The stage two construction contract will have a value above the Key Decision threshold and must therefore be executed under seal.
80. CPR 6 (Insurance) states that contracts with direct advice and/or design services provided by the supplier (including all consultancy and construction arrangements) must have a requirement for professional indemnity insurance. The Service Department must undertake a risk assessment to ensure that the levels of insurance are adequate seeking advice from the Council's Insurance team. Finally, adequate security must be obtained as part of the requirements of the contract in one of the forms set out in CPR 7.3.

## **Workforce Implications**

81. This report seeks to secure expenditure against capital budget to progress works at the Bullsmoor Lane location. If approved this may result in the need for additional Council resource such as Clerk of Works, Project Management etc.
82. If it is determined that additional resource is to be recruited the direct and indirect cost implications of this additional resource will need to be considered.

## **Property Implications**

83. HRA property implications: these are found throughout this report.
84. Corporate property implications: no new implications.

## **Other Implications – Procurement**

85. All Procurement must be carried out in accordance with the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules (CPRs) using the London Tenders Portal.
86. Due Diligence of any Frameworks Agreements used must be carried out by Procurement Services. This has been completed for the LHC and CCS Framework Agreements.
87. A Business Cases will need to be presented to Procurement Services for approval to agree the route to market.
88. Social value must be considered due to the value of this contract
89. The awarded contract must be promoted to the Contract Registered and Contracts Finder.

## **Options Considered**

### Direct Delivery:

90. The site is developed through a 2 stage Design and Build contract through a competitive procurement and funded through grant and borrowing.
91. The proposal is to establish a Public contracts regulations 2015 compliant route to the market in consultation with the procurement team
92. The Council will need to sufficiently resource the development activities. This include resources within its development management, legal, and procurement services.
93. The Council has the greatest level of control of the delivery objectives through the construction contract and Employer's Requirements (ERs).

### Do nothing:

94. The Council would miss out on the opportunity to utilise significant levels of GLA grant to develop additional affordable housing at a reasonable cost to the Council. The Council will also miss out on maximising the use of the land within their ownership for development

### Let the private market develop the site:

95. This would lead to fewer units of affordable housing and the site may not be developed, but simply be land banked.

## **Conclusions**

96. The development of the site will:
  - a. Bring forward schemes that would not be attractive to developers seeking headline profit margins of 20-25%.
  - b. Increase the portion of affordable housing achieved
  - c. Create successful places through high quality tenure blind place management

- d. Support the HRA through the income from rents and sales
- e. Ensure the socio-economic benefits of development are fully realised and equitably distributed.
- f. Viability of the scheme is sensitive to an increase in total scheme cost of 10% or a reduction in grant of £25k per unit; either will result in breach of approved hurdle criteria; Housing Development Team to review design to ensure hurdle criteria not breached.

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## **Appendices**

Appendix A: Financial viability

## **Background Papers**

The following document have been relied on in the preparation of this report:

- Better Council Homes Workplan and Budgets 2019/20 (KD4830)
- Housing and Growth Strategy (KD4841)
- HRA 30-year Business Plan 2020 (KD4969)
- Maximising the Council's Direct Development Delivery report (KD 4998)
- Capital Strategy & Capital Programme 2021/22 to 2030/31 (KD5210)
- Better Council Homes (KD5219)