



City of Westminster

Cabinet Member Report

Decision Makers: Cabinet Member for Climate Action, Regeneration and Renters

Cabinet Member for Finance and Council Reform

Date: 14 March 2023

Classification: Part Exempt Appendix A & B of this report are to be exempt from disclosure as (i) it contains information relating to the financial or business affairs of a particular person (including the authority holding that information) under paragraph 3 of Schedule 12A of the Local Government Act 1972, (ii) it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings under paragraph 5 of Schedule 12A of the Local Government Act 1972; (iii) and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Title: Balmoral Castle and Darwin House – Approval of the Full Business Case and the Appointment of the Main Contractor to Deliver Phases 2,3 and 4

Wards Affected: Pimlico South

Policy Context: The proposed development will collectively help to contribute to Westminster City Council's (WCC) commitments to a Fairer Westminster, specifically:

- Fairer Housing (Greener Affordable Housing to support the needs of residents and social care users)
- Fairer Environment (low energy targets that will help contribute towards Westminster becoming Carbon Neutral by 2030)

- Fairer Communities (enable all our communities to share in the economic prosperity of the area, through protecting and enhancing the unique heritage of the neighbourhood)
- Fairer Council (demonstrated by engaging residents and local stakeholders in a comprehensive consultation process that has provided the community with the opportunity to have a stake in the scenarios considered for the future of the Pub and Darwin House)

Key Decision: Yes – Significant expenditure

Financial Summary: The total cost of the scheme is £41.080m (£18.150m net) and will be funded from the allocated budget within HRA Business Plan.

Report of: Debbie Jackson, Executive Director of Growth, Planning and Housing.

1. Executive Summary

- 1.1. As part of the Housing and Regeneration Development Programme, within the Housing Revenue Account (HRA), Westminster City Council (WCC) are seeking to appoint Wates Construction Limited (Wates) to redevelop the Balmoral Castle and Darwin House site.
- 1.2. The site comprises the former Balmoral Castle public house, Darwin House and 23 garages (the Site). It is located adjacent to Churchill Gardens Estate and is part of the Churchill Gardens Conservation Area - bordered by Grosvenor Road to the south and Churchill Gardens Road to the north, directly overlooking River Thames.
- 1.3. The scheme is being delivered in four phases: Phase 1 comprises demolition of the Balmoral Castle public house and 23 vacant garages, Phase 2 comprises 34 new homes - Community supported housing (CSH) (Block A), Phase 3 comprises the demolition of Darwin House and Phase 4 comprises 18 new homes – Affordable Intermediate Rent housing (Block B).
- 1.4. This paper seeks the approval of the Full Business Case and to appoint Wates under a JCT Design & Build 2016 Contract.

2. Recommendations

- 2.1. That Appendix A & B of this report be exempt from disclosure as they involve the disclosure of information as prescribed by paragraph 3 of Part 1 of Schedule 12a of the Local Government Act 1972, (as amended), in that they contain information relating to the financial or business affairs of any person (including the authority).
- 2.2. That the Cabinet Member for Finance and Council Reform in consultation with the Cabinet Member for Climate Action Regeneration and Renters and the Cabinet Member for Housing Services.
 - Approves the Balmoral Castle and Darwin House Full Business Case.
 - Approves the Contract award appointing Wates to undertake the main construction works.
 - Approves expenditure of £37.137m to take the scheme to practical completion.
- 2.3. That the Cabinet Member for Climate Action Regeneration and Renters in consultation with the Cabinet Member for Finance and Council Reform.

- Delegates authority to the Executive Director of Growth Planning and Housing to approve and enter into any other agreements and any property documents including but not limited to warranties, substation leases, wayleaves, licences, deeds of easements, statutory agreements, and utilities agreements in connection with ancillary works required to facilitate the construction works.

3. Reasons for Decision

- 3.1. Following a review of the existing Darwin House accommodation and garages, council officers began reviewing the unique opportunity to improve the living accommodation for the existing Darwin House residents by offering modern size Community Supportive Housing (CSH) units whilst also providing much needed affordable housing in the city of Westminster.
- 3.2. As part of the scheme, the Council is committed to ensuring that Darwin House residents would only be required to move once, therefore the project will be phased to ensure that the first phase of the project will build the new CSH block. This will ensure that Darwin House can remain in operation until the new replacement CSH building is complete. As well as this, the Council has committed that for any development on the site:
- There will be a full replacement of all council homes.
 - The Council will provide the maximum possible affordable housing.
 - The Council will support all residents through any moving process.
 - Works will be phased to minimise disruption to residents.
 - All new homes will be covered by a local lettings plan, meaning local people will benefit from the new homes.
 - Residents will be at the heart of the development and design of the project.
- 3.3. The proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social, or environmental well-being of the area.
- 3.4. The Full Business Case represents the final business case stage in the project and reconfirms that project remains the most suitable option for the Council to deliver.
- 3.5. The Full Business Case has shown that there is still a strong strategic, economic, commercial, financial and management case for the project to progress to the delivery phase.

- 3.6. Wates have now completed the detailed design and a rigorous open book tendering exercise has been undertaken and overseen by the Council's appointed Cost Consultant (Arcadis). Wates submitted their final price to deliver the scheme in January 2023. This was agreed in February 2023. The proposed contract value is higher than originally anticipated due to global inflationary pressures and the overall budget envelope has been extended as a result. Arcadis have confirmed that the Contract Sum for the main works represents reasonable value for money.
- 3.7. The Contract Award Report (Gate 3) has been presented to the procurement Commercial Gateway Review Board (CGRB) and endorsement has been obtained.
- 3.8. Finance Capital Review Group (CRG) approval has been obtained for the project endorsing the recommendation to the Executive Director of Growth, Planning and Housing to recommend to the Cabinet Member to award the JCT Design & Build Contract to Wates for the Works.

4. Background and Policy Context

- 4.1. The site comprises the former Balmoral Castle public house, Darwin House and 23 WCC owned garages. It is located adjacent to Churchill Gardens Estate and is part of the Churchill Gardens Conservation Area - bordered by Grosvenor Road to the south and Churchill Gardens Road to the north, directly overlooking the river Thames. The former public house closed to the public around 2006, the land is no longer required for the purpose for which it is held by the council, it has remained vacant since and is now in a very poor state of repair. The land in which the public house occupies sits in the General Fund. The current accommodation in Darwin House comprises small bedsits measuring circa 30m². The dwellings are not sized to allow for an accessible layout and there is no space for a carer or family member to stay overnight. The garages which are now vacant and no longer in use are owned by WCC and were formerly let on weekly licenses. Darwin House and the garages are accounted for in the Housing Revenue Account (HRA).
- 4.2. In 2021, the Cabinet Member for Finance, Property and Regeneration approved the Outline Business Case (OBC).
- 4.3. Wates were appointed in October 2021 through a Pre-Construction Services Agreement which included the completion of the scheme design, additional surveys and agreement of a fixed contract sum for the Main Building Works.

4.4. Detailed Planning Consent was granted in November 2021.

4.5. Wates have also been appointed in June 2022 through a Building Contract to demolish the Balmoral Castle Public House and vacant garages. This Contract has recently been extended to cover “early” works on site ahead of the Main Works Contract being entered into.

4.6. Subject to the authority and approvals requested in this report, the engrossment and execution of the main works contract is due to take place in March 23. The Main Works are also due to commence in March 2023.

5. Summary of Full Business Case (FBC)

5.1. This FBC has been prepared in line with HM Treasury’s Green Book (2022) and “Five-Case Model”. A copy is included in Appendix B – Full Business Case. It demonstrates that the proposed public sector investment:

- Is supported by a robust case – the Strategic Case
- Offers value for money – the Economic Case
- Is financially affordable – the Financial Case
- Is feasible – the Commercial Case
- Can be delivered successfully – the Management Case

Strategic Case

5.2. In 2018, WCC received a **320-signature petition** from the local community supporting the redevelopment of the derelict Balmoral Castle Public House into CSH units.

5.3. The development proposals will replace the former Balmoral Public House, Darwin House, and garages with 34 new CSH flats that follow HAPPI (Housing our Aging Population Panel for Innovation) standards and 18 Intermediate Rent apartments, much larger than the current provision. The scheme comprises a total of 52 units, with a net uplift in residential accommodation of **21 units**.

5.4. As part of the scheme, the Council is committed to ensuring that Darwin House residents will only be required to move once, ensure **minimal disruption** to the existing residents.

5.5. During the design development stages, the design team have ensured the scheme designed is **environmentally conscious** and **energy efficient**, exceeding the guidelines for sustainability in the London Plan.

Economic Case

5.6. The Economic Case assesses the potential value for money of the proposed project, in accordance with the **HM Treasury Green Book**.

5.7. The key economic benefits centre on land value uplift. In addition to the analysis of quantifiable effects, consideration has also been given to the wider economic, social and environmental.

5.8. The value for money analysis demonstrates that the preferred option results in **BCR = 1.6** indicating that the project provides “acceptable” value for money.

Financial Case

5.9. A Strategic Outline Case was presented to CRG in July 2018.

5.10. In December 2020, the Cabinet Member for Finance, Property and Regeneration approved the Outline Business Case for the development.

5.11. Between December 2020 and November 2022, regular reviews of the scheme costs have been performed to understand the changing economic environment. Recent impacts such as COVID 19 and the War in Ukraine have led to widely reported significant increases in inflation which has contributed to increased volatility within the construction sector and their supply chains.

5.12. In December 2022, an update briefing was circulated to Capital Review Group members. This briefing had the support of the responsible cabinet member and recommended utilising budget from within the HRA Business Plan to deliver this scheme.

Commercial Case

5.13. The Council’s Commercial Gateway Review Board (CGRB) approved the procurement strategy Gate 2 for the redevelopment of the site to progress with a two-stage procurement process, via a compliant framework, the Crown Commercial Services (CCS) Construction Works & Associated Services Framework (RM6088) – Lot 6.2: Residential.

- 5.14. Wates was recommended for the PCSA development works contract based on the tender outcome. All approvals were in line with the Council's procurement code.
- 5.15. In line with the Council's approved Procurement Strategy at Gate 2, the first stage consisted of the Council appointing a Contractor based on Pre-Construction Services Agreements to discharge the Pre-construction Services of progressing the design through RIBA Stage 4. The site enabling works conclude March 2023 in line with the main construction programme.
- 5.16. Wates has progressed with the detailed design (RIBA Stage 4) with regular design team and project team meetings throughout the process. The Main Works Contract Sum has been priced using the RIBA Stage 4 design information.
- 5.17. The Board of Westminster Housing Investments Limited (WHIL), trading name 'Westminster Builds', has agreed in principle to the acquisition of the intermediate rent units that are part of the development, subject to the finalisation of commercial and financial arrangements. The purchase of the intermediate rent units meets the WHIL business plan objectives as it facilitates and supports a Council led development solution for this site. It also enables the long-term ownership within the Council's group.

Management Case

- 5.18. The project has an established Working Group/Project Delivery Group within the Council. This group is responsible for the day-to-day project management of the project delivery. The Group focusses on their respective project delivery targets and report to the Project Board.
- 5.19. WCC has engaged with the local community to inform the scheme proposals. A comprehensive Community Involvement Strategy was developed to guide and support the undertaking of all communications and engagement regarding the development of the site.
- 5.20. The Communications and Engagement Plan sets out proposed strategy and methods to ensure key stakeholders are kept informed and reassured about construction work up to completion of the project. It is a live document and will be updated as new programme information is confirmed.

6. Party Wall Matters

- 6.1. The only party wall notices that needs to be served is to the end of terrace property in Grosvenor Road next to Darwin House. Our earlier initial land registry enquiries revealed that there is a leaseholder interest as well as the freeholder.
- 6.2. Notices can only be served with a drawing showing the type and depth of foundation in a section.
- 6.3. Notices should be served approx. 12 to 16 weeks in advance of the works (Piling) to provide sufficient time for party wall matters to be concluded.
- 6.4. The adjoining owner has the right to request security for expenses, and his surveyor can ask for an advising engineer to scrutinize the design.

7. Rights of Light (ROL)

- 7.1. The Council have instructed specialist ROL Surveyors to undertake due diligence.
- 7.2. The Council recognises that in respect of third-party rights of light which exist and to which an entitlement is proved, the Council will be liable to pay statutory compensation and will pursue a settlement strategy to ensure that any claimants receive adequate statutory compensation.

8. Financial Implications

- 8.1. The Balmoral Castle and Darwin House scheme provides a 100% affordable scheme of 52 new homes across two blocks. The total development cost of scheme delivery is £41.080m (net £18.150m) and will be funded from the allocated budget within the HRA Business Plan.
- 8.2. Capital funding for the scheme of £22.931m is derived from Affordable Housing Fund contributions, Greater London Authority (GLA) grant and a receipt from the Councils wholly owned company Westminster Builds to purchase the intermediate rent housing.
- 8.3. Further detail can be found in Appendix A - Financial Implications.

9. Legal Implications

- 9.1. This report seeks approval of Cabinet Members to:
 - The Full Business Case,
 - The award of the main building contract to Wates (the sum includes the cost of pre-construction services and enabling works which are

subsumed into this contract as well as anticipated planning value engineering works once Planning approvals have been received) and

- the delegation to the executive Director of Growth Planning and Housing to approve ancillary documents.

- 9.2. The Public Contracts Regulations 2015 (PCRs) apply to this contract because the total value is above the financial threshold. Contract award using a valid framework such as CCS RM6088 is a compliant procurement process under the PCRs.
- 9.3. It is understood that a two-stage tender process was competitively procured via the framework with four contractors submitting an offer. Wates provided the most economically advantageous tender.
- 9.4. The contract terms for the works will be the JCT Design and Build 2016 terms and conditions with the Council's standard amendments, the use of which is permitted by the Framework.
- 9.5. Details of the contract awards must be published on Contracts Finder in accordance with the PCR's and the Council's Procurement Code.
- 9.6. Under the Council's Procurement Rules rule 4.1.3 a Cabinet Member is authorised to approve the award of a contract with a financial value over £1,500,000 following recommendation to approve from the appropriate Executive Leadership Team member and CGRB endorsement.
- 9.7. Under paragraph 12.3 Chapter 3 of the Constitution, a Cabinet Member may delegate his/her executive functions to an officer. The delegation to ED (GPH) to execute ancillary documents is justified for expeditious execution of various documents required to effect the decision and for efficient use of the Member time.
- 9.8. Under the Financial Procedure Rules there must be a Full Business Case for all projects with a financial value over £10 million and it must be signed off by a Cabinet Member.
- 9.9. Planning - The recommendations will require (as necessary) examination of planning consent and related legal agreements.
- 9.10. Disposal of the intermediate units to WHIL must be for not less than best consideration. Local authorities are given powers under the Local Government Act 1972, subject to applicable legal constraints, to dispose of land in any manner they wish, including sale of their

freehold interest, granting a lease, or assigning any unexpired term on a lease, and the granting of easements. However, a disposal must be for the best consideration reasonably obtainable, as set out in section 123 of the Local Government Act 1972 (except in the case of short tenancies), unless the Secretary of State consents to the disposal. A lease granted for a term of more than seven years is not a short tenancy for the purposes of section 123 of the Local Government Act 1972.

9.11. If the site is held for planning purposes at the time of disposal (i.e., after an appropriation for planning purposes) the Council will be required to dispose of the intermediate units to WHIL in accordance with section 233(1) of the Town and Country Planning Act 1990 (TCPA 1990). A local authority can dispose of land appropriated for planning purposes to such person, in such manner and subject to such conditions as appear to the local authority to be expedient to secure one of the following:

(i) The best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on it (whether by the authority or by any other person).

(ii) The erection, construction or carrying out on it of any buildings or works appearing to the authority to be needed for the proper planning of its area.

9.12. A disposal of land by a local authority under section 233 of the TCPA 1990 must be for the best consideration it reasonably can obtain, unless the Secretary of State consents to the disposal.

9.13. The Secretary of State's consent is required for a disposal of land held for housing purposes. If the Council disposes of the intermediate units to WHIL when the homes are constructed, and the land is accounted for in the Council's Housing Revenue Account (HRA) it would be required to obtain a market price under the General Housing Consents 2013. Paragraph A.3.1.2 of the General Housing Consents 2013 limits disposals to a Council subsidiary (i.e., WHIL) to five in any financial year.

10. Carbon Impact

10.1. The Council has committed to achieve net zero carbon emissions from operations by 2030 and across the city by 2040.

10.2. The Climate Emergency Action Plan includes an action to embed carbon impact assessments into all capital-funded project proposals, to maximise the climate benefit of council investments and limit new sources of emissions wherever possible. The project team will complete the CIET as part of the annual budget setting process.

- 10.3. The scheme aligns with Westminster's City Plan - objective 7 which outlines WCC's commitment to reduce carbon by minimising detrimental impacts from developments. Policy 36 outlines the Council's aim of promoting net zero developments and the means for doing so.
- 10.4. The scheme is designed to meet the AECB Building Standard. This is aimed at those wishing to create high-performance buildings using widely available technology. It is estimated that this low-risk option will reduce overall CO2 emissions by 70% compared to the UK average for buildings of each type.
- 10.5. The scheme does not include any fossil fuel and heating will be via exhaust air heat pumps.
- 10.6. WCC policy currently focuses on net zero in operation, with the requirement that major developments should be net zero carbon but where it is 'not financially or technically viable to achieve zero-carbon on-site, any shortfall in carbon reduction targets should be addressed via off-site measures or through the provision of a carbon offset payment secured by legal agreement'. The policy also outlines that the energy hierarchy should be followed, as per the principles of the Mayor of London's energy hierarchy.
- 10.7. Wates Carbon Reduction Strategy comprises of three sections: on-site, embodied carbon and performance evaluation. From a construction standpoint wates have chosen materials specifically with reduced carbon levels and ensured that a large quantity of materials will be manufactured off-site. i.e. pre-cast columns will have less embodied carbon than concrete lorries. All plant and equipment are switched off when not in use, materials are managed efficiently so that there is minimal excess, and any surplus will be re-used in a different context where at all possible. In terms of site set up Wates use solar panel powered Eco-cabins and time lapse cameras which minimise the dependence on gas for fuel, all welfare lighting is on a sensor, fire points are battery powered. Wates manage travel distances to and from site when it comes to sub-contractor selection. Wates have a green travel plan which encourages people to source local labour and materials make them aware of public transport links wherever possible. The final part of Wates strategy is recording so that they can evaluate performance and identify areas for improvement. Wates record all deliveries and labour travel distances are recorded and fed into their internal reporting system EcoWeb. Wates performance is captured monthly and displayed in the welfare and the community noticeboards

11. Consultation

- 11.1. An extensive community consultation engagement campaign took place in the surrounding areas by members of the Council's Community engagement team during the pre-planning submission period in 2020/21 (whilst working on the planning application designs).
- 11.2. After planning permission was achieved in November 2021, the Council worked with stakeholders to keep them up to date and informed of the works. This engagement included Darwin House Residents, Churchill Gardens Residents, Churchill Gardens Residents Association and near neighbours (including schools and businesses).
- 11.3. In addition, the Council established a Construction Liaison Group in October 2021, with meetings with the CLG, project team and Wates colleagues taking place every 6 weeks. Group members are given updates regarding on site works and given the opportunity to feedback any suggestions or complaints they may have regarding noise, dust and vibration monitoring etc.
- 11.4. Continuous, structured engagement is planned, and this will allow the Council to achieve its objectives throughout the build at Balmoral Castle and Darwin House. A local engagement presence will create an environment where local people will understand the aims of the scheme and are engaged in the ongoing construction process.
- 11.5. By embedding an engagement team in the local community, the Council can build on strong relationships with key local stakeholders and take a proactive approach to bringing the community together. This will ensure that residents are well-informed of the ongoing works in the area and have direct access to accurate information throughout the build. Regular dialogue with the community will aim to ensure misinformation about the project is allayed, whilst providing a trusted channel of communication for ongoing queries. There will be continuous, structured, proactive communications and engagement throughout.
- 11.6. The Pimlico South Ward Members have been provided a Briefing Note ahead of this Cabinet Member Report and no comments or concerns have been received.

12. Equalities Implications

- 12.1. As a public sector organisation, the Council has a duty under the Equality Act 2010 and the associated Public Sector Equality Duty (PSED) to ensure that the proposals do not lead to unlawful discrimination (direct and indirect), and that they advance equality of opportunity and foster good relations between those with a protected characteristic and all others. An EIA is often used by public sector

organisations to demonstrate how this duty has been discharged. It is the Council's policy that EIAs are undertaken and updated for projects throughout their development.

- 12.2. The Equalities Impact Assessment (EqIA) has been considered in light of the development plans with an assessment on actual benefits and any negative impacts of the scheme throughout the development considered in design. The EqIA has been updated at key milestones in the project.
- 12.3. The Balmoral Castle/Darwin House development will contribute to improvements for the Churchill Gardens Estate through a net increase in community supported and affordable housing, new employment opportunities associated with the construction, new landscaping, and green space.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Graham Soars – Senior Development Delivery Manager,
gsoars@westminster.gov.uk

APPENDICES

- Appendix A – Not for Publication – Further Financial Implications
- Appendix B – Not for Publication – Full Business Case

BACKGROUND PAPERS

None.

For completion by the **Cabinet Member for Climate Action, Regeneration and Renters**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed:  Date: 14/03/2023
NAME: **Councillor Matt Noble**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled

Balmoral Castle and Darwin House – Approval of the Full Business Case and the Appointment of the Main Contractor to Deliver Phases 2,3 and 4

Signed: 

Cabinet Member for Climate Action, Regeneration and Renters

14/03/2023

Date: _____

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2)

your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

For completion by the **Cabinet Member for Finance and Council Reform**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report



Signed:

Date: 14/03/2023

NAME: **Councillor David Boothroyd**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled:

Balmoral Castle and Darwin House – Approval of the Full Business Case and the Appointment of the Main Contractor to Deliver Phases 2,3 and 4

Signed:



Cabinet Member for Finance and Council Reform

14/03/2023

Date:

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