



City of Westminster

Cabinet Member Report

Meeting or Decision Maker: Cabinet Member for Climate Action, Regeneration and Renters

Cabinet Member for Finance and Council Reform

Date: 21 July 2023

Classification: General release except for Appendix A, B, C & D

Appendix A, B, C & D of this report are 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: Carlton Dene Site – Stage 1 Tender Approval

Wards Affected: Maida Vale

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) and Fairer Council (demonstrated by engaging residents and local stakeholders in a comprehensive consultation process).

Key Decision: Yes – Significant expenditure

Financial Summary: The Cabinet Member is requested to give authorisation to the Executive Director of Growth, Planning and Housing to enter into a contract of £5.882m with Lovell

to complete main works stage 1 at the Carlton Dene site.

The current budget allocation for Carlton Dene scheme as per the approved business plan for the HRA is £53.254m with prior year spend of £3.973m. A more detailed analysis of the financial viability on the preferred option will be given in the financial implications section and a full business case will be presented at the conclusion of procurement process for the appointment of the contractor for the main works stage 2.

Report of:

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

1. Executive Summary

- 1.1 The Carlton Dene site forms part of the Specialist Housing Strategy for Older People Programme (SHSOP). The programme will enable the introduction of specialist housing solutions which meet current and future service demand, upgrades the standard at which services are being delivered, reduce the number of older people being placed out of borough and reduce costs.
- 1.2 Planning permission was granted in March 2021 (20-08040-FULL) for 65 Extra Care Social Rent Affordable Homes that are designed to HAPPI standard, dementia friendly, and will provide associated communal space, including café, residents lounge and activity space delivering new homes for WCC residents with access to 24/7 care and services onsite; and 22 Social Rent Affordable Homes.
- 1.3 A hybrid two-stage procurement process concluded on 5 May 2023 with three bids received. Lovell were the overall winner of the tender process with a combined commercial and qualitative score of 84.33%. This report seeks to recommend awarding the following contracts to Lovell:

Pre-Construction Services Agreement (PCSA)

- Pre-Construction Services Agreement (PCSA): £1,241,413

JCT Design and Build Stage 1 Works

- Stage 1 Sub –structure works: £2,355,143.
- Stage 1 additional scope: £2,286,115
- The total value of contracts and the commercial exposure this report is subject to is **£5,882,671**. Please note the individual contract amounts may be subject to change pre-contract but the overall sum of contracts will stay the same.
- Cost consultant WWA recommend a 5% risk is attached to this which will be captured in the scheme contingency.

- 1.4 WCC has fixed some costs and rates for Stage 2 works upfront to achieve a commercial advantage. Please note WCC is not contractually bound to proceed with Stage 2 however should WCC proceed it would benefit from having these costs fixed now:
- Fixed design fees: £1,449,064
 - Fixed preliminaries: £4,633,580
 - Fixed Overheads and Profit: £364,959
 - Total Fixed: £6,447,603
 - Fixed Overheads and Profit % rate: 6%
- 1.5 This report also seeks to update the Cabinet Members on:

- The current viability position of the scheme and how this will be finalised prior to the forthcoming Full Business Case (FBC) at the conclusion of the two-stage tender process.
- The operation model under consideration and how this will be finalised aligned with delivery of the FBC.

2. Recommendations

- 2.1 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 entering into the following contracts with the successful bidder, Lovell Partnership Limited (Company registration number 2387333):
- **(i) PCSA** contract value of £1,241,413 **and**
 - **(ii) JCT Design and Build Stage 1 Works** contract value: Stage 1 Sub –structure works: £2,355,143 and Stage 1 additional scope: £2,286,115
- Total amount of **£5,882,671**
- 2.2 That the Cabinet Member for Climate Action Regeneration and Renters in consultation with the Cabinet Member for Finance and Council Reform approves the contract award spend of £5.882m for the two contracts detailed above to progress the scheme to Full Business Case.
- 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 other agreements and property documents including but not limited to leases, warranties, substation leases, wayleaves, licences, deeds of easement, asset protection agreements, section 104 agreements, section 185 agreements and any other statutory agreements and utilities agreements in connection with ancillary works required to facilitate the construction works at Carlton Dene.
- 2.4 That the Cabinet Member for Climate Action, Regeneration and Renters and the Cabinet Member for Finance and Council Reform endorse the agreed viability position in principle and for the project team to work through the detail of the relationship between Housing and Adult Social Care (ASC). The team will report back at FBC stage with a detailed solution.

3. Reasons for Decision

- 3.1 The Carlton Dene scheme will deliver an additional 87 social rent units towards WCC's targets to deliver truly affordable housing. 65 of the above-mentioned units will be classified as 'Extra Care' and will replace the former Carlton Dene care home that did not meet modern standards for care. These units will assist in meeting WCC's demand for adult social care product.
- 3.2 The proposed development will 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 neighborhood)
 - Fairer Council (demonstrated by engaging residents and local stakeholders in a comprehensive consultation process).

4. Background and Policy Context

- 4.1 The site includes Carlton Dene care home and Peebles House located on the corner of Carlton Vale and Kilburn Park Road, close to the border with Brent. Carlton Dene previously housed a 42-bed residential care home that was no longer fit for purpose and did not meet modern standards for care. Peebles House was a block of 9 flats (8 social rented and 1 leasehold). The residents were consulted in line with the provisions of the 1985 Housing Act and supported its inclusion in the development. WCC acquired the leasehold flat.
- 4.2 Following consultation in 2018, the Council approved the closure of the Carlton Dene Care Home with the residents moving to Beachcroft or a suitable alternative of their choice. The demolition of Peebles House was also approved enabling the land to be released for redevelopment.
- 4.3 In 2019, the then Cabinet Member for Finance, Property and Regeneration approved the Outline Business Case (OBC) for the development. Detailed Planning Consent was granted in March 2022 for 65 Extra-Care Social Rent Affordable Homes that are dementia friendly, designed to HAPPI standards and include associated communal space, including café, residents lounge and activity space providing new homes for WCC residents with access to 24/7 care and services onsite; and 22 Social Rent Affordable Homes.

- 4.4 A soft market testing exercise was carried out in September 2022 to test the construction strategy and delivery routes with the market to inform any subsequent Procurement Strategy. Interviews were held with a range of potential delivery partners including contractors and owner operators. The outcome being that the WCC self-delivery was the preferred option and would resonate the most with the market. This would encompass a self-delivery construction option as opposed to engaging with a Design, Build, Finance and Operate (DBFO) operator. A Cabinet Member report was subsequently endorsed in October 2022 to recommend a self-delivery model whereby WCC would procure the scheme under a hybrid two stage process with separate contract for demolition.
- 4.5 The demolition and enabling works were approved internally on 4 October 2022. Following a competitive tender process, the demolition contract was awarded to AR Demolition on 8 March 2023. Works have commenced with a start on site of 20 March being achieved. Practical completion is due on 7 July 2023.
- 4.6 The project will benefit from a successful bid for grant funding from the Greater London Authority. As a result of the start on site pre-30 March 2023, 90% of the grant funding has been claimed to the value of £13,970,279. The total value of the claim is £15,522,533.
- 4.7 The stage 1 works and PCSA procurement process was endorsed by CGRB in November 2022. Following a shortlisting of bidders at pre-qualification questionnaire (PQQ) stage the ITT process was concluded on 5 May 2023. Subject to the approvals requested in this report, the engrossment and execution of the stage 1 works contract and PCSA is due to take place in July 2023. The Stage 1 works are also due to commence in October 2023

5. Stage 1 Works and PCSA Procurement

- 5.1 In January 2023, the procurement strategy was endorsed internally to procure a main works contractor through a Competitive Procedure with Negotiation (CPN) to procure a contractor via hybrid two stage process.
- 5.2 The design team had progressed the design for the substructure works to RIBA stage 4 and the superstructure had been progressed to RIBA stage 3. The scope for the tender was to be in two Stages:
- Stage 1: A fixed price for the substructure works (enabling works including excavation, ground works/stabilisation, piling mat and subsequent pilling operations), a fixed price to deliver a PCSA to develop the balance works to RIBA Stage 4 and offer a commercial advantage

- by fixing the design fees, preliminaries and % rate for overheads and profit now for the duration of the scheme.
 - Stage 2: Fixed price to deliver the main building works.
- 5.3 Following tender evaluation whereby the commercial and qualitative scores were combined Lovell is the successful preferred bidder based on a score of 84.33%. Please refer to Appendix C – Procurement Tender Score Summary.
- 5.4 The main risk to programme is the need to enhance Stage 1 scope to include utilities, below ground drainage, attenuation tanks and the ground floor slab. This would ensure continuity of works between Stage 1 and Stage 2 and avoid having any fallow period. As a result, a recommendation has been made by the Council's consultants, WWA to enhance the scope with an additional instruction to the Stage 1 works that carries a value of £2,286,115.
- 5.5 An internal panel from Development and Adult Social Care evaluated the qualitative components of the tender based on the following elements:
 - Scheme delivery/methodology
 - Design management/viability
 - Cost Efficiency, Programme and Risk
 - Resources and Project Personnel
 - Responsible procurement
- 5.6 Tenderers were scored from a commercial perspective on their figures associated with the items identified in Stage 1 above. The full value for money report by WWA can be found in Appendix A.
- 5.7 The value for money report makes the follow key recommendations in addition to the above:
 - All tenders offer value for money on a competitive basis in line with the budget.
 - All tenders have approached the market for Substructure Works proving a fixed price with similar Provisional Sums for small element of works used to equalise the tenders.
 - All tenders identified percentage overheads and profit fixed for the Stage 2 Works.
 - No tenders have identified a percentage for Contractor's Design Risk for the Stage 2 Works; this would need to be agreed prior to entering a contract.
- 5.8 On the basis of Lovell being the successful preferred bidder at the conclusion of this process some further commentary is provided on their programme:
 - Lovells programme has a very good level of detail overall, particularly for the PCSA design activities, the procurement and the supply chain interface which indicates that they will be able to arrive at a robust Stage 2 tender and cost plan for WCC to review.
 - The overall duration of 108w sits in the mid-range of all three tenderers at 108w and meets the GLA deadline of 30 September 2025.

- The Employer's Agent, Mace interrogated the bidders programme and methodology. The full analysis by Mace can be found at Appendix B.

6. Financial Implications

Contract Award

- 6.1 This report is requesting for an approval to enter into the following contracts to the value of £5.882m as illustrated by the table below:

Details	Amount £'000
Pre-Construction Services Agreement (PCSA)	1,241
Stage 1 Sub-Structure works	2,355
Stage 1 Additional Instruction	2,286
Total	5,882

- 6.2 Fixed costs and rates for the following components for the full duration of the scheme to the value of £6.448m:

Details	Amount £'000
Fixed Design fees	1,449
Fixed preliminaries	4,634
Fixed overheads and Profit	365
Fixed overheads and Profit % rate	6%
Total Fixed Costs	6,448

- 6.3 Therefore, the total value for both contracts to be awarded now is **£5.882m**. This is fully budgeted within the current allocation for Carlton Dene within the HRA Capital Programme and total value of commercial exposure through fixed cost is £6.448m. The fixed overhead and profit rate is 6%.
- 6.4 The viability update is available at Appendix D.

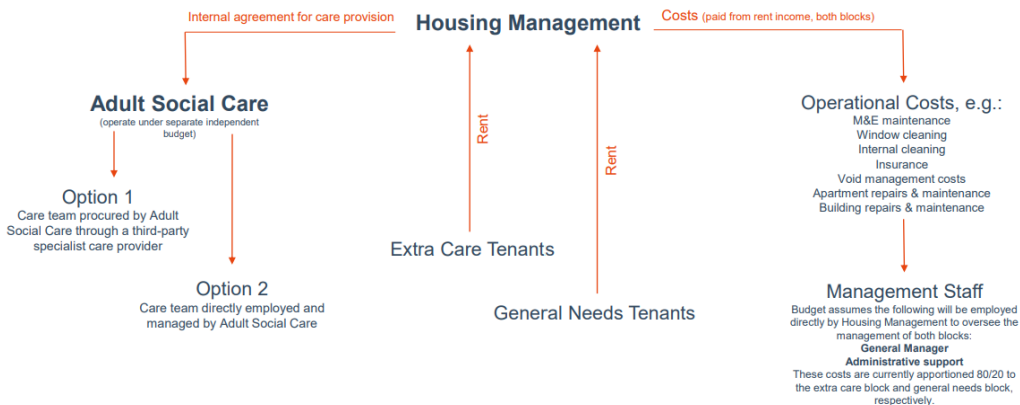
7. Operations and Management Implications

- 7.1 As part of the CMR in October 2022 a decision was made to deliver the scheme internally and consider internally led options for operations and management. Early 2023, the project team including colleagues from Development, Adult Social Care (ASC) and Housing considered a hybrid operator model and agreed in principle a delivery solution prior to a Full Business Case being delivered. The team was bound by the below commitments:
- 100% affordable scheme (Social) following the council's truly affordable review.
 - Block A will facilitate 'extra care' self-contained units as opposed to care home beds.

- The land must be appropriated for planning purposes based on the intended use.

7.2 The hybrid option considers at a high level the following split of responsibilities illustrated in the below diagrams:

- Housing: rent collection, tenancy management, maintenance/repairs, insurance, health and safety and void management.
- ASC: The provision of care services to the residents of the extra care block providing care either internally by recruiting a suitably qualified team to deliver the required services or outsource the care provision through a suitably qualified third-party care provider.



7.3 When considering comparable schemes and the future relationship between Housing and ASC, the most comparable scheme is Burgess Fields in RBKC in which the asset is owned by the council. At a high-level, Housing absorb all management activities and ASC manage the care service via an SLA with Octavia. The project staff have identified a clear need for this

solution/relationship to be worked through and optimised for a more efficient solution that can be written into agreements from the outset rather than in retrospect.

8. Legal Implications

- 8.1 The procurement strategy that was endorsed and approved was for officers to procure the services and works by way of a call for competition in accordance with competitive procedure with negotiation under regulation 29 of the Public Contracts Regulations 2015 (PCR). Officers conducted the procurement exercise accordingly and evaluated initial tenders and accepted the Contractor's tender to deliver PCSA services and the stage 1 enabling works. There was no need to enter into negotiations with tenderers for submission of final tenders as best value had been achieved under the Contractor's tender.
- 8.2 Under the Council's Procurement Code, section 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 subject to prior endorsement by the Council's Commercial Governance Review Board.
- 8.3 Under paragraph 12.3 Chapter 3 of the Constitution, a Cabinet Member may delegate his/her executive functions to an officer.
- 8.4 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.
- 8.5 Planning - The recommendations will require (as necessary) examination of planning consent and related legal agreements.

9. Carbon Impact

- 9.1 The Council has committed to achieve net zero carbon emissions from operations by 2030 and across the city by 2040.
- 9.2 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.
- 9.3 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.

- 9.4 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.
- 9.5 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. Consultation

- 10.1 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 (whilst working on the planning application designs).
- 10.2 After planning permission was achieved, the Council worked with stakeholders to keep them up to date and informed of the works. Continuous, structured engagement is planned, and this will allow the Council to achieve its objectives throughout the build at Carlton Dene. 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.
- 10.3 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.
- 10.4 The Maida Vale Ward Members have been provided a Briefing Note ahead of this Cabinet Member Report.

11. Equalities Implications

- 11.1 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.

- 11.2 It is the Council's policy that EIAs are undertaken and updated for projects throughout their development.
- 11.3 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.
- 11.4 The Carlton Dene development will contribute to improvements for the Maida Vale ward through an increase in 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:

Michael Marcello – Senior Development Manager

mmarchello@westminster.gov.uk


APPENDICES

1. Appendix A – Not for Publication – WWA Value for Money Report
2. Appendix B – Not for Publication - Mace Analysis
3. Appendix C – Not for Publication - Procurement Tender Score Summary
4. Appendix D- Not for publication- Financial Viability

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

Declaration of Interest

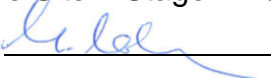
I have no interest to declare in respect of this report

Signed:  Date: 21 July 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 **Carlton Dene Site – Stage 1 Tender Approval**

Signed: 

Cabinet Member for Climate Action, Regeneration and Renters

Date: 21 July 2023

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:

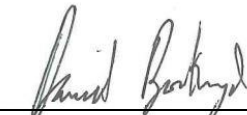
If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can 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

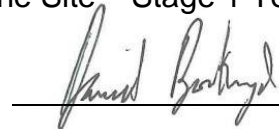
I have no interest to declare in respect of this report

Signed:  Date: 21 July 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 Carlton Dene Site – Stage 1 Tender Approval

Signed: 

Cabinet Member for Finance and Council Reform

Date: 21 July 2023

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.

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