



Cabinet Member Report

Decision Makers:	Cabinet Member for Finance and Council Reform, Cabinet Member for Climate Action, Regeneration and Renters
Date:	08 August 2023
Classification:	Part Exempt: Appendices A, B & D 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:	Westmead Development – Approval of the Full Business Case and the appointment of the Main Contractor to deliver the new development
Ward Affected:	Westbourne
Policy Context:	<ul style="list-style-type: none">▪ Fairer Housing (Greener Affordable Housing to support the needs of residents)▪ 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 – expenditure.
Financial Summary:	The budget allocation for Westmead scheme as per approved capital strategy for 2023/24 is £41.425m (including £4.390m spend in previous years). A more detailed analysis of the financial viability on the preferred option will be given in the financial implications section and in full business case for approval.

1. Executive Summary

- 1.1 As part of the Housing and Regeneration Development Programme, Westminster City Council (WCC) are seeking to appoint Willmott Dixon Limited (WDC) to redevelop the Westmead development. The site is located on the western edge of the borough at 4 Tavistock Rd, London W11 1BA used to accommodate the former Westmead care home; the previous residents were offered brand new accommodation in 2020 freeing up the site for development.
- 1.2 The redevelopment of the Westmead care home received planning permission for a residential scheme providing 65 new homes. These homes will now provide 100% affordable housing. The scheme is being delivered in two phases: Phase 1 comprises demolition of the site and piling works, Phase 2 comprises the build of 65 new homes. Phase 1 was procured earlier this year in March 2023 and completed July 2023. This paper seeks the approval of the Full Business Case and to appoint WDC under a JCT Design & Build 2016 Contract.

2. Recommendations

- 2.1 That Appendix A, B & D 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 following consultation with the Cabinet Member for Climate Action Regeneration and Renters and the Cabinet Member for Housing Services:
- Approves the Westmead Full Business Case.
 - Approves the Contract award appointing WDC to undertake the main construction works.
 - Approves expenditure of £40.978m 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 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 the Westmead site.

3. Reasons for Decision

- 3.1 The former Westmead care home no longer met the modern standards for a care facility and was no longer fit for purpose. The care home was closed in 2020 and is now vacant. Therefore, the site is no longer required for the purpose for which it is held by the Council. The proposed redevelopment will contribute to the Fairer Westminster ambitions in the following ways:

- **Fairer Economy:** enhancing local employment opportunities i.e., the creation of construction jobs and apprenticeship opportunities.
- **Fairer Housing:** Providing the Council with additional affordable housing. The project will regenerate a site comprising of 65 affordable homes providing both social housing and intermediate tenures contributing to much needed housing in Westminster.
- **Fairer Environment:** The development will provide landscaping accessible by the wider estate and the building will be sustainable using renewable energy sources.

3.2 The proposed development will also contribute the well-being of the Council's area in the following ways:

- **Economic Well-Being** of the area demonstrated by engaging residents, commercial occupiers and local stakeholders in a comprehensive consultation process that has provided the community with the opportunity to have a stake in the scenarios being considered for the future of Westmead.
- **Social Well-Being of the area** by promote opportunity and fairness providing more affordable homes to create a vibrant community through the creation of high-quality homes and landscaping.
- **Environmental Well-Being of the area** through the creation of a healthier, greener environment that connects better to surrounding communities. This scheme will enable all our communities to share in the economic prosperity of the area, through protecting and enhancing the unique heritage of the neighbourhood. This will ensure the site will fit well into the surrounding neighbourhood and remains a great place to live, work and visit both now and in the future.

3.3 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. 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.

3.4 In August 2022, following a rigorous procurement strategy, WDC was identified as the preferred contractor through a technical evaluation. Westminster then issued the Employers Requirements to WDC who priced the main build scheme. WDC have now completed the detailed proposal and commercial schedule overseen by the Council's appointed Cost Consultant (Arcadis). WDC submitted their final price to deliver the scheme in April 2023. This was agreed in June 2023. Arcadis have confirmed that the Contract Sum for the main works represents reasonable value for money.

3.5 The Contract Award Report (Gate 3) has been endorsed internally. Finance 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 WDC for the Works.

4. Background and Policy Context

- 4.1 Westmead is located on the western edge of the borough, at 4 Tavistock Rd, Notting Hill, London W11 1BA. The site is close to Westbourne Park underground station and is not situated near any listed buildings, although it borders Aldridge Road Villas and Leamington Road Villas Conservation Areas. The conservation area to the south of the site consists of desirable 19th century terraces (4 storey). To the north and west are largely 4 storey developments of similar age to Westmead. St. Andrew's House: Home of the Secretariat of the Anglican Communion Office is adjacent to the site, offering various facilities (including overnight accommodation).
- 4.2 The existing development is of very low density in the context of the surrounding area and has great potential to deliver new homes. The proposed development accords with the highlighted objectives of the development plan and although the site does not sit within the conservation areas, the proposed development will be considered in the context of the conservation areas. The design reflects the architectural significance of Aldridge Road and Leamington Road Villas conservation areas, the units are designed to include a range of flats and marionettes to suit various types of households and contain family sized homes. As well as this, the proposal will be set back on the northern part of the site and therefore will not encroach on surrounding buildings.
- 4.3 An Outline Business Case (OBC) was approved by the Cabinet Member in October 2019. Planning Permission was granted for the development in November 2020. Willmott Dixon were appointed in March 2023 through a Building Contract to demolish the former Westmead care home building and piling works. 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 August 2023. The Main Works are due to commence in February 2024.

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 Westmead was built in the early 1970s and no longer meets modern design standards. The site was previously used as a Care Home until late 2019/ early 2020 when the residents were offered alternative accommodation in Beachcroft Development located in Maida Vale. This Extra Care facility was built specifically to rehouse Westmead residents and other Care Home residents affected by redevelopment proposals.
- 5.3 In October 2022, the Council published 'Our Strategy for a Fairer Westminster' which places residents at the centre of decision-making to build an inclusive and diverse

community. One of the key ambitions within this strategy is 'Fairer Housing' which prioritises the delivery of 'genuinely affordable housing', the majority of which is council rented units. The strategy sets a target of 70% council-owned developments by 2026. This strategy led to a section 73 application being submitted for Westmead in November 2022. This proposed a minor material amendment to the consented scheme of a change in tenure, for the 41 private residential units to become a mix of intermediate and social rented units. In addition to the existing 24 affordable units (14 intermediate and 10 social rent units), this will deliver a split of 31 intermediate units and 34 social rented units across the site to produce 100% affordable housing.

- 5.4 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

- 5.5 The Economic Case assesses the potential value for money of the proposed project, in accordance with the **HM Treasury Green Book**. 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. The value for money analysis demonstrates that the preferred option results in **BCR = 1.53** indicating that the project provides value for money.

Financial Case

- 5.6 In October 2019, the Cabinet Member for Finance, Property and Regeneration approved the Outline Business Case for the development. Between December 2020 and November 2022, regular reviews of the scheme costs have been performed to understand the changing economic environment. 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. In June 2023, 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 Capital Strategy to deliver this scheme.

Commercial Case

- 5.7 The Council's Commercial Gateway Review Board (CGRB) approved the procurement strategy Gate 2 for the redevelopment of the site to progress, via a compliant framework, the Crown Commercial Services (CCS) Construction Works & Associated Services Framework (RM6088) – Lot 4.1: England & Wales: Construction Works £30-£80m. WDC was recommended for the development works contract based on the tender outcome. All approvals were in line with the Council's procurement code.
- 5.8 The Council's Commercial Gateway Review Board (CGRB) approved the procurement Strategy at Gate 2 for the redevelopment. The strategy entailed the use of the Crown Commercial Services (CCS) Construction Works & Associated Services Framework (RM6088). The procurement undertaken followed a strict process, seeking expression of interest from the 14 suppliers on the Framework, and invited a shortlist to submit a detailed response to non-price questions and an overhead and profit margin to apply to the construction. As a result of the procurement process, WDC were invited to submit a final contract sum.

- 5.9 The Contract is a building Contract incorporating and amending the JCT Design and Build Contract, 2016 Edition. The contract follows a separate procurement and appointment for the demolition and site preparation works and will encompass detailed design (RIBA Stage 4) taking place from August 2023 until February 2024, and the delivery of the 88-week construction works programme from February 2024. 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

- 5.10 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.
- 5.11 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 need to be served is to the adjacent St Andrews House. Our earlier initial land registry enquiries revealed that there is a leaseholder interest as well as the freeholder. Notices can only be served with a drawing showing the type and depth of foundation in a section. 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. 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. 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 Westmead scheme provides a 100% affordable scheme of 65 new homes. The total development cost of scheme delivery is £40.978m (net deficit of £21.392m) and will be funded from the allocated budget within the approved capital strategy for 2023/24.
- 8.2 Capital funding for the scheme of £19.586m is derived from Greater London Authority (GLA) grant of £7.175m and a capital receipt of £7.570m from the Councils wholly owned company Westminster Builds to purchase the intermediate rent housing and

£4.841m from the HRA for the social homes. Further detail can be found in Appendix A - Financial Implications.

9. Legal Implications

- 9.1 Officers are seeking endorsement from the Cabinet Member for Finance and Council Reform to award the main building contract to Willmott Dixon Limited to redevelop the Westmead care home. The total contract value is £41.080m, which is above the financial threshold for works and therefore subject to the full and relevant implications of the Public Contract Regulations 2015 ("PCR 2015").
- 9.2 It is proposed that the procurement be undertaken via CCS framework agreement, RM6088. That framework agreement was procured by CCS following publication of contract notice 2019/S 025-054274 on the 5th of February 2019. The Framework has been set up in compliance with regulation 33 of the Public Contracts Regulations 2015 ("the PCR") and the Council is permitted access to use it as the contract notice makes it clear that the framework shall be available for use by local authorities such as WCC. Calling-off from a compliant framework to award the contract is in compliance with the Council's obligations as it also offers Best Value and under the PCR 2015.
- 9.3 The framework agreement (Framework Alliance Contract (FAC-1)) is in place for a period of 84 months commencing on the 31st of October 2019 and expiring on the 28th of October 2026. There is no maximum contract length. However, CCS recommends that a contract should not exceed 4 years beyond agreement expiry.
- 9.4 The Council can award a call-off contract with a provider on the Framework by way of a mini-competition or direct award. Schedule 4.1 of the FAC-1 sets out the call-off procedure the Awarding Authority must use for the direct award of a call-off contract. The Council must issue to the Alliance Member a Project Brief describing the scope and nature of the of the Projects comprising the Framework Programme and setting out the Client (CCS) or Additional Client (WCC)'s technical, management and commercial requirements. The Council will then apply the direct award criteria to the description of the works as set out in the Project Brief, for all Supplier Alliance Members capable of meeting the Project Brief to establish which of the Supplier Alliance Members provides the most economically advantageous solution. On the basis set out above, the Council shall award the Project Contract to the successful Supplier Alliance Member, where the criteria and weightings to be applied is that of 75% for quality and 25% for price.
- 9.5 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. Details of the contract awards must be published on Contracts Finder in accordance with the PCR's and the Council's Procurement Code. The contract would need to be sealed so would require legal input. Under the Council's Procurement Code 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.
- 9.6 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 affect the decision and for efficient use of the Member time.

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.

- 9.7 Planning - The recommendations will require (as necessary) examination of planning consent and related legal agreements.
- 9.8 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.
- 9.9 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.
- 9.10 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.
- 9.11 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. 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.

- 10.2 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. 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.
- 10.3 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.

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 (whilst working on the planning application designs).
- 11.2 After planning permission was achieved in November 2020, the Council worked with stakeholders to keep them up to date and informed of the works. This engagement included Harford House, Falldon House, Leamington House, St Andrews Anglican Communion Office and Consultative Council, and near neighbours (including businesses).
- 11.3 Continuous, structured engagement is planned, and this will allow the Council to achieve its objectives throughout the build at Westmead. 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.
- 11.4 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.
- 11.5 The Westbourne 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 Westmead development will contribute to improvements for the Westbourne 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:


Farah Hassan –Development Delivery Manager, fhassan@westminster.gov.uk

Appendices

- Appendix A –Value for Money Report (Exempt from Publication)
- Appendix B – Full Business Case (Exempt from Publication)
- Appendix C – Equalities Impact Assessment
- Appendix D – Financials (Exempt from Publication)

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: 08 August 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

Westmead Development – Approval of the Full Business Case and the appointment of the Main Contractor to deliver the scheme.

Signed: 

Cabinet Member for Climate Action, Regeneration and Renters

Date: 08 August 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.

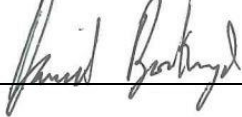
Additional comment:

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

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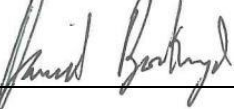
NAME: **Councillor David Boothroyd**

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

Westmead Development – Approval of the Full Business Case and the appointment of the Main Contractor to the scheme.

Signed: 

Cabinet Member for Finance and Council Reform

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