



Cabinet Member Report

City of Westminster

- Decision Makers:** Cabinet Member for Communities and Regeneration
Cabinet Member for Finance and Smart City
- Date:** 6 August 2021
- Classification:** For General Release save for Appendix 1, 2 and 4 be declared as exempt from publication
- Title:** Ebury Bridge Full Business Case (Phase 1)
- Wards Affected:** Churchill
- City for All:** See below
- Key Decision:** Yes
- Financial Summary:** The report sets out the full business case supporting the delivery of Phase 1 of the Ebury regeneration scheme and requests approval to enter into the main works contract. Given the increases being experienced in the cost of construction, the Council is keen to reduce this risk and gain some certainty over a substantial proportion of costs related to phase 1 of the scheme.
- Whilst the latest overall financial viability position for the entire scheme (phases 1 and 2) is showing a deficit and unaffordable debt position there is scope within the later phases to further review the scheme and consider a range of mitigations that could put in place to improve this position.
- Report of:** Debbie Jackson, Executive Director (Growth, Planning and Housing) and Gerald Almeroth, Executive Director (Finance & Resources)

1. Executive Summary

- 1.1. This report sets out the progress made to date on the delivery of the Ebury Bridge renewal scheme since the approval by Westminster City Council's Cabinet of the comprehensive redevelopment of the estate in July 2018. The report seeks approval of the Full Business Case (FBC) for the delivery of the first phase of the scheme as set out in Appendix 1 of this report.
- 1.2. The regeneration of Ebury Bridge will provide more affordable housing and bring about the long-term physical, economic and social sustainability of the neighbourhood. It will create a high quality neighbourhood that offers an attractive mix of homes including affordable homes for rent and sale meeting a

range of housing needs as well as shops, public realm and community facilities. The regeneration proposals will deliver a cohesive and vibrant new housing community in the South of the borough with excellent connectivity and integration within the wider area.

- 1.3. Planning permission was granted by Westminster's Local Planning Authority (LPA) in April 2021 which provided consent for the delivery of Phase 1 of the project, through a detailed application and outline consent for the delivery of latter phases of the scheme, subject to the completion of the Unilateral Undertaking which is well progressed and with the Greater London Authority (GLA) for approval. The first phase of the scheme will see delivery of 226 new homes and a significant component of the affordable housing provision including 97 homes for returning social tenants and 16 homes for returning leaseholders.
- 1.4. Progress of the business case for the delivery of the Ebury Bridge scheme has been reported through regular Ebury Bridge Programme Board Meetings, Cabinet Member Briefings and the City Council's governance arrangements through Cabinet and Cabinet Member decision papers. The City Council has maintained a robust approach to cost and project management and control.
- 1.5. In establishing the business case for the delivery of Phase 1, cost pressures have emerged as a result of the local residential property market (current sales and rent assumptions), operating expenditure (opex), construction, demolition and acquisition costs. The approval of this Phase 1 FBC enables many of the Phase 1 costs to be fixed, thereby removing the risk of further movements. External advisers and cost consultants have also independently verified the assumptions and costs supporting the Phase 1 FBC and wider scheme viability position and, where appropriate, confirmed a value for money position on Phase 1 costs. It will be necessary to regularly update the wider market assumptions that will impact on the overall scheme viability and there are opportunities to revise future phases to mitigate some of the emerging cost pressures.
- 1.6. The FBC has been produced, which provides the evidence base necessary to support the Council's decisions as set out in this report and for Westminster City Council to agree that its wholly owned subsidiary Westminster Housing Investments Limited (WHIL) to buy all the intermediate units at practical completion, based on their tenanted market value at that date. In the current base case model, for Phase 1 only, this is a minimum of 28 units or a maximum of 44 units (depending on the number of resident leaseholders that will opt to purchase the 16 intermediate ownership units being delivered as part of the Phase 1 development), all of which will transfer to WHIL in January 2024.
- 1.7. The FBC for Ebury Phase 1 has been recommended for approval by the City Council's Capital Review Group and the Westminster Builds' Board, confirming the project is providing Value for Money (VfM) and is considered financially viable from a capital and revenue perspective across all phases.

2. Recommendations

- 2.1 That Appendices 1, 2 and 4 of this report be exempt from disclosure by virtue of the Local Government Act 1972, Schedule 12A Part 1, paragraph 3 (as amended), in that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 2.2 That Cabinet Member for Communities and Regeneration and the Cabinet Member for Finance and Smart City:
 - 2.2.1 Approve the FBC for Phase 1 of the Ebury Bridge renewal scheme as set out above and in Appendix 1 and supported by Appendix 2 and 3 of this report.
 - 2.2.2 Subject to 2.2.1 approve the appointment of Bouygues (U.K.) Limited (BYUK) as the Main Contractor to deliver the construction work on Phase 1 of the scheme, all associated spend in accordance with the terms and conditions of the contract and the completion of all necessary contractual documentation associated with this appointment.
 - 2.2.3 Subject to compliance with the minimum commercial assumptions in this report and the FBC with regards to the Phase 1 intermediate units, delegates authority to the Executive Director for Growth, Planning and Housing to approve the relevant documentation to give effect to the lawful disposal of the Phase 1 intermediate rent units to WHIL and thereafter for the Council to enter into those agreements.
 - 2.2.4 Subject to the Commercial Gateway Review Board (CGRB) endorsement and recommendation to approve from the appropriate Executive Leadership Team member, approves the appointment of Cundall Johnston & Partners LLP (CJ&P LLP), the recommended contractor as the compliance monitoring team for Phase 1 delivery at a contract value of £5,888,842.
 - 2.2.5 Approve expenditure for the compliance monitoring team for Phase 1 delivery of £1,709,918.
 - 2.2.6 Notes the current position in relation to the scheme viability for all phases of delivery.
 - 2.2.7 Notes the intention to undertake soft market testing and eventual procurement of an external provider to deliver all housing and estate management services required for both Phase 1 and future phases for an initial delivery period.

2.2.8 Notes the intention to undertake soft market testing and eventual procurement of an external provider to deliver the energy maintenance and management services on the scheme.

3. Reasons for the Decision

- 3.1. Identified in the 2010 Housing Investment Strategy, the regeneration of the Ebury Bridge estate is a key priority for the City Council.
- 3.2. The Council is satisfied that the redevelopment of the estate will contribute towards meeting the City for All objectives, in particular the '*Vibrant Communities*' and '*Greener and Cleaner*' pillars.
- 3.3. Following the City Council's approval of Scenario 7, the full redevelopment of the existing estate, significant progress has been made in preparation for the delivery of the renewal scheme.
- 3.4. Of the 336 households originally residing on the estate, 239 households have been successfully re-housed elsewhere in the City. This has been achieved without the use of compulsory purchase powers or legal enforcement action.
- 3.5. 140 households have indicated they wish to return to the redeveloped estate and remain in regular dialogue with the project team about their move back.
- 3.6. The vacant possession of blocks across the estate has enabled land assembly work to progress at pace. This has included the demolition of 7 of the 13 existing residential blocks, ground investigations, utility diversions and initial groundworks that have prepared the Phase 1 site for redevelopment. The Phase 1 programme allows for the successful completion of all necessary Phase 1 site preparation works for the main works, piling activity, to commence in November 2021.
- 3.7. The procurement of a design and build contractor was successfully undertaken and BYUK have been working with the team under a Pre-Construction Services Agreement (PCSA) and have offered a value for money fixed price works package for the delivery of Phase 1. Construction activity, inflation, materials pricing and labour shortages are increasing the cost of construction within the market and it's important to secure the Phase 1 fixed price offered to ensure no adverse movement in the Phase 1 and overall scheme viability.
- 3.8. Following a thorough and detailed pre-planning consultation period, the scheme received unanimous planning approval in April 2021. The consent enables the construction of Phase 1 of the scheme pending completion of the unilateral undertaking and the discharge of pre-commencement conditions. The team are well advanced in agreeing the unilateral undertaking and gaining GLA approval and preparations to discharge the pre-commencement conditions are underway to ensure a timely commencement of on-site activities and delivery of the reed programme.

- 3.9. A Unilateral Undertaking has been agreed with the Local Planning Authority and has now been issued to the GLA with their approval expected in early August. Full planning approval in early August will ensure a start on site date of Phase 1 in September 2021, with main works commencing in November 2021 with practical completion in March 2024. This programme is reflected in the Phase 1 fixed price and contractual terms negotiated with BYUK.
- 3.10. The required land appropriation for Phase 1 also needs to be undertaken for the purposes of planning and the successful delivery of Phase 1. A thorough assessment of the implications of the Phase 1 and entire development have been undertaken by the team, local consultation and negotiation is underway as we have been advised and approval is now required for us to complete the formal appropriation process from a legal and financial perspective.
- 3.11. The required team is in place, to effectively client and successfully deliver the Phase 1 development, with the exception of the Compliance Monitoring Team (CMT), that will ensure that BYUK deliver the Phase 1 homes to the required design quality and safety requirements that have been specified. Subject to Gate 3 approval, the procurement of the CMT has been concluded and a preferred contractor is recommended for appointment. Further details of this procurement and the recommended award is provided in Appendix 4 of this report.
- 3.12. The FBC has been produced supporting the recommendation that the City Council takes the lead in the delivery of Phase 1 of the Ebury Bridge scheme, thereby evidencing:
- A compelling case for change;
 - Maximising value for money, including wider social, environmental and economic benefits;
 - Successful delivery by the Council and its contractors.
- 3.13. The approvals 30% of the total construction costs associated with the Ebury regeneration scheme. Importantly, it also maintains momentum of delivery on site and the delivery of 226 new high quality homes, 142 of which are affordable, and the first of the new landscaped public open spaces by 2024; setting the standard for all future phases of the development.
- 3.14. Our proposed management approach assumes a comprehensive, single management provider to deliver all housing and estate services required across all tenures within Ebury. The services that comprise the management solution on Ebury are detailed in Table 1 below. The operational cost assumptions include all required lifecycle, maintenance and management services to deliver a successful long term estate regeneration scheme on Ebury. The scope of the services will include the following and will be subject to further market engagement and a suitable procurement approach to engage a suitably qualified partner for Phase 1 and potentially future phases of the development.

A breakdown of the assumed operational costs are included within the FBC attached at Appendix 1.

Table 1: Scope of Housing and Estate Management Services

Housing and Estate Service Scope		
Management & concierge Security Cleaning Mechanical & Electrical servicing	Landscaping Management of planned repairs and maintenance Cyclical works to communal areas	Community engagement Tenancy management – all tenures Income collection – all tenures Void management Marketing & re-letting

3.15. Ebury performs well from a sustainability perspective due to the adoption of a ground source and air source heat pump solution to deliver all required heating and cooling requirements for the new homes. It is recognised that the energy infrastructure and energy provision across the new estate will require specialist support and this is subject to further work and recommendations in due course. The maintenance and lifecycle costs of the energy infrastructure does form part of the operational cost assumptions contained within the Phase 1 and overall scheme viability position.

4. Background

4.1. In July 2018, following a detailed options appraisal process carried out in partnership with estate residents, the City Council Cabinet approved Scenario 7, the full redevelopment of the Ebury Bridge estate and the creation of around 750 new homes.

4.2. Authority was given to the project team to work up in greater detail how the scheme could be taken forward. This involved engagement with the housing market around delivery options and potential partnership arrangements.

4.3. Following this process, in October 2018, Cabinet approval was received for a new approach to the delivery of Phase 1 the Ebury Bridge scheme. Approval was provided for the City Council to take forward self-delivery of Phase 1 of the scheme by the Housing Revenue Account (HRA) supported by the purchase of the new intermediate rent units by Westminster Housing Investments Limited, the Council's wholly owned housing company. This enabled Ebury to remain a Council-led regeneration scheme and enabled the delivery of 226 new homes, 63% of which are affordable to largely satisfy the re-housing commitments that were made to local residents and to enable future phases of delivery.

4.4. Extensive consultation was undertaken with Ebury Bridge residents and the CFG around the development of a hybrid planning application and construction phasing programme. Changes to the Outline Business Case (OBC) were then approved by a Cabinet Member decision and an additional budget of £24m was approved from the HRA for the delivery of Phase 1. The Baseline viability position that was set out in the OBC for the full scheme was a deficit of £107m and an HRA annual deficit position of £3.6m.

- 4.5. In December 2020, following scheme optimisation and market engagement, a baseline position of an overall HRA capital deficit of £85m and an affordable HRA surplus position of £4m was agreed as part of the 2021/22 budget setting process for the HRA. Scheme capital and revenue costs and income have been thoroughly reviewed as part of drawing together the Full business case for Phase 1. The capital deficit and unaffordable debt have increased across the scheme. However given the commitment to Phase 1 and the backdrop of rising construction costs and the scope for the application of potential mitigation measures under Phase 2, the business case is being brought forward for approval. The OBC for Phase 2 is due to be considered in Autumn this year which will set out in more detail these mitigation options to be applied to that phase to improve the overall viability of the scheme.
- 4.6. Full planning consent was granted in April 2021 for 781 new homes comprising 198 social replacement, 41 new social, 86 intermediate rent, 21 intermediate ownership, 18 discounted market rent, 178 market rent and 239 market sale.
- 4.7. The scheme will deliver an increase of 166 new affordable homes (a 50% increase on the current estate), 90 new family sized homes and also provides over 1,000m² more play space and an increase of 3,018m² retail and amenity space.

5. Policy Context

- 5.1. The proposals for all the sites are in line with key policies in the Draft London Plan and address the delivery of affordable homes (GG4) and increasing housing supply (H1), developing social infrastructure (S1), developing green infrastructure (G1) and improving air quality (S11). The proposals will help to contribute to achieving London's housing and affordable housing targets.
- 5.2. The proposals also support the objectives in the Council's City for All Strategy 2021/22. The developments proposed help to contribute to the Council's City for All ambitions by supporting the development of a more inclusive community, with improved opportunities through the range of housing provided through the provision of affordable housing.

6 Full Business Case Summary

- 6.1 The Council's capital governance framework (which is also followed by Westminster Builds and related entities) requires the project team to complete a FBC before entering into a contractual arrangement for delivery of a capital project. The purpose of the FBC is to set out the contractual and commercial arrangements for the negotiated deal, confirm it remains viable and to set out the detailed management arrangements for successful delivery, monitoring and evaluation of the scheme.
- 6.2 The FBC is included Appendix 1 to this report and is summarised below. It fully details the case for change and reflects the strategic and outlined business cases that exist for the scheme and the previous approvals granted that have been important in delivering the progress and deliverables to date.

7. Strategic Case

- 7.1. The proposals for Ebury Estate renewal align to key strategic and planning policy documents. The proposals for residential development are in line with key policies in the London Plan. They will collectively help to contribute to the Council's City for All ambitions by supporting the development of a more inclusive community, with improved opportunities through the range of housing and, specifically, the increased provision of affordable housing.
- 7.2. The scheme components and expected benefits are aligned to local, regional and national policy objectives. The integrated housing and public realm development tackles structural issues identified in the UK Government's housing policy paper ('Fixing our broken housing market') as well as targets set out in the Draft London Plan. At the local level, the scheme supports the Council's strategies such as the City Plan 2019-2040 and City for All Vision and Strategy 2021/22.
- 7.3. The Ebury Bridge scheme will deliver:
- An exemplar local authority-led development in South Westminster;
 - High quality new homes including mixed tenure affordable housing and new, increased levels of family housing;
 - A sustainable and low carbon development that will deliver environmental improvements in Westminster from year 12 onwards compared to the existing estate;
 - New pedestrian route to re-open the historic north / south access route between Ebury Bridge and the river;
 - Extensive public realm improvements, including the creation of four landscaped public squares, actively promoting community cohesion, health and well-being; and
 - High quality architecture designed to integrate and enhance the character of the surrounding area.

8. Economic Case

- 8.1. The economic appraisal of the preferred Option has been carried out in line with the Her Majesty's (HM) Treasury Green Book (2018) and the HM Treasury Guide to Developing the Project Business Case (2018).
- 8.2. In accordance with this guidance, the Economic Case focuses on public value from the perspective of society and considers, as far as possible, all social, economic and environmental costs and benefits.
- 8.3. The FBC economic case confirms that positive economic benefits are derived from the delivery of the Ebury Bridge estate regeneration scheme compared to the 'Do Nothing' option. It also demonstrates the scheme represents good value for money for society and the UK as a whole.

- 8.4. The economic case also identifies the range of benefits being delivered as part of this schemes that is not included within the value for money assessment i.e. local place-based benefits derived from the scheme.

9. Commercial Case

- 9.1. A fully transparent procurement process carried out by the Council resulted in the selection of BYUK as the preferred supplier for the design and build contract required to deliver Phase 1 of this project. The proposal from BYUK provided the greatest balance of cost and quality that ultimately resulted in its selection as the preferred supplier. The development of the proposals for the project including designs, costs and delivery periods have been agreed between BYUK and the Council through a collaborative process that ensured that the supplier was capable of delivering all work packages assigned to it.
- 9.2. Where BYUK was unable to deliver a given work package, these have been retendered by BYUK, thereby reducing the risk to the Council associated with this additional procurement process. The contract between the Council and BYUK has yet to be finalised but is in an agreed form. It includes a clear agreement for the development of the site to be led by HRA, with the Council as the client and BYUK as the supplier, contracted to that client.
- 9.3. The collaborative and iterative approach taken to finalise the agreement between the Council and BYUK provides clarity and certainty that the required services can be delivered by the supplier. The initial phase of procurement that selected BYUK ensured that the successful bidder provided the greatest value for money for the scheme, which has been confirmed by Gardiner and Theobald LLP in their VfM report attached in Appendix 2.
- 9.4. An agreement in principle has been received from the Board of Westminster Builds for the acquisition of the intermediate rent units at practical completion for the purchase price and on the basis of the assumptions outlined within the FBC. Further work will be necessary to complete the required legal and financial documentation to complete this transaction in accordance with the programme and secure this capital receipt for the HRA.
- 9.5. The commercial terms and conditions and required legal documentation has been agreed for the appointment of the preferred contractor to deliver the compliance monitoring services required for Phase 1 Ebury works. Subject to the Gate 3 approval and the approval within this report, the team are in a position to complete the contractual requirements and secure these services in line with the Phase 1 programme.

10. Financial Case

- 10.1. The financial case is included in full at Appendix 1.

11. Management Case

- 11.1. The approach to project governance taken on the delivery of the Ebury Bridge Estate Renewal project is the standard approach used successfully by the Council on all of its major capital projects and incorporates a clear structure of reporting and clearly defined roles for each element of the delivery team.
- 11.2. The delivery team, which will lead the project's delivery on a day to day basis is part of the Council's existing governance structure, in which the project delivery team reports to the Programme Board, which in turn reports to the Cabinet Member for Communities and Regeneration, the Capital Review Group and then to the Cabinet.
- 11.3. There is a dedicated Stakeholder Group in place at Ebury Bridge. The Community Futures Group (CFG) was established in October 2017 following the Listening Period which took place with residents, prior to any renewal options being explore. The CFG worked in partnership with the Council to establish it's Terms of Reference including holding the Council to account to deliver against the project principles and both the Council's and the Community's objectives and were instrumental in producing the Community Commitments documents published in January 2020. The group continues to provide a resident voice in key decisions around delivery.
- 11.4. The delivery of the project on behalf of the Council will be led by the Council's Regeneration team, who will remain onsite until the delivery of the new homes. The team remains responsible for ensuring high levels of engagement and regular and effective communications with the CFG, residents living on the estate and those living away waiting to return and other local community groups and near neighbours throughout the delivery of the Ebury Bridge renewal programme.

12. Sales and Marketing Strategy

- 12.1. Phase 1 of the Ebury regeneration comprises 84 residential apartments across Buildings 7 and 8 that will be released for private sale. This is expected to generate a minimum capital receipt of £88m based on current Red Book valuation. Following a competitive process, Jones Lang LaSalle ("JLL") have been appointed as sales agents for the residential units.

12.2. A four stage sales and marketing strategy is summarised in Table 2.

Table 2: Summary of Ebury Sales and Marketing Strategy

Milestone	Phase 1 – Pre-Launch	Phase 2 – Local first priority Release	Phase 3 – UK Domestic launch	Phase 4 On going sales
Date	2023	2023/24	2023/24	2023/24
Objective	Build scheme presence, database and marketing collateral.	Establish a presence via marketing suite. Engage with all stakeholders, local and current residents and Westminster residents. Small, targeted release covering a cross section of units.	Drive momentum and launch to the wider London market creating and driving sales rates Underpin the development in the market and continue to build awareness Implement a customer journey	Proactive and generate leads Maintain sales momentum and velocity Maintain sales rates with an effective customer journey to prevent fall outs Progressive branding and creative campaign with focused advertising campaign
Approach	Creating and building an extensive database of pre-qualified enquiries. Applicant database specific to the scheme characteristics High-impacting hoarding erected directing purchasers to online holding page. Wider canvassing through strategic advertising within the local press. The database will be complimented by JLL London database for strategic application to Phases 2 and 3.	Initial private release to the local, Westminster market Pre-sales generated from this release event will start to build the urgency from which all future releases will feed. Generate market feedback on market demand, setting precedent for pricing levels.	A 1 -2 day launch event within a show-apartment with support of sales agent local offices. The event would attended by local press, previous purchasers and prospective buyers Capitalising on the interest created by earlier phases of the strategy.	Continued engagement with local business and events Run research events from the marketing suite to update buyers on the market and market trends. Continue to capitalise on local exposure and dedicated marketing campaign.

13. Project Risks

13.1. A summary of the key risks associated with the scheme is provided in Table 3.

Table 3: Project Risks and Risk Mitigation Measures

Risk	Mitigation
Failure to meet agreed timescales for approval and the construction price increases for Phase 1 materially impacts the scheme's financial viability position	Detailed and robust negotiations have continued with BYUK throughout the PCSA period and we have secured an independently verified value for money price for the construction of Phase 1. The team have undertaken regular briefings internally and constantly monitored and reported on the commercial and financial position of both Phase 1 and the scheme overall. The Project Team have been actively engaging and managing all programme related deliverables and approvals to mitigate this risk.
Failure to achieve planning approval	Local planning approval secured, subject to GLA approval and the formal execution and completion of the Unilateral Undertaking (which is well progressed and subject to GLA sign off). The Project team are actively managing the turnaround times of the GLA to ensure the minimisation of any potential delays and impact on programme. Good relationships exist between the Council and the GLA at both an operational and strategic level.
Failure to discharge the pre-commencement conditions within 8-weeks.	Required pre-commencement conditions have been identified by LPA and the Project Team are compiling the information required for submission as soon as the Unilateral Undertaking has been completed. Good levels of collaboration between the WCC and BYUK team, with weekly meetings and tracker in place to enable a full and complete submission in accordance with the timescales and to enable satisfactory discharge within the programme dates.
Failure to divert utilities and hand over Phase 1 site	Extra High Voltage (EHV) cable diversion completed to programme. Openreach diversion underway and delivering to programme. Sub station relocation and lease surrender on critical path and being actively managed by the Project team. JF Hunt undertaking pile probing, pile mat construction and agreed site preparation works in consultation and involvement of BYUK. Further period of collaborative and joint working for Phase 1 site set up required in advance of handover of site to BYUK for Phase 1 commencement. Good levels of collaboration between the parties and active programme and project management by the WCC and advisory team.
Resurgence of COVID-19 imposes restrictions on construction activity and performance	Pre-agreed variation in place and agreed with BYUK in case of COVID-19 construction restrictions being implemented post contract commencement. Price impact secured for WCC and BYUK taking risk of programme impacts. If further restrictions are implemented beyond Site Operating Procedures 7 (SOP 7), previous restrictions, then the Council will grant extension of time and BYUK to absorb price risk.
Right of Light (RoL) negotiations with affected parties do not progress in accordance with the programme	RoL notices and negotiations commenced and will be undertaken to the point of appropriation (subject to Cabinet approval) that will extinguish all rights. Time period allows for a reasonable period of notice, contact and negotiation in advance to the formal request to appropriate. Progress being actively monitored and managed by the Ebury Project team.

Risk	Mitigation
Unable to appropriate for planning purposes and rely on subsequent powers to override Rights within the timescales outlined	Advice and timetable for appropriation agreed and needs to be completed prior to the Phase 1 works imposing any right of light implications on neighbouring properties (as an absolute back stop). Being actively monitored and managed by the Project team and external and internal legal colleagues.
Third party approvals and licences	The design team and BYUK are engaging in a fortnightly Third Party meeting where all items are reviewed and proactively managed to avoid programme impacts and deliver necessary agreements and licenses as required by the programme. Further information and technical modelling being undertaken as necessary to secure necessary approvals.
Failure to achieve overall Phase 1 development cost/budget	This FBC secures a fixed price for Phase 1 delivery and is within the budget that was set for the project in the HRA business plan in December 2020. In addition, the vacant possession costs for Phase 1 are secured and all design related fees and requirements now pass in full to BYUK as part of their fixed price contract for Phase 1. Sales risk of the 84 market sale units and the intermediate rent units to Westminster Builds at the appropriate juncture remains an HRA risk until completion. The operational costs resulting from an external housing and estate management and external energy management solution also remains a risk item until fully procured. The operational cost allowance within the overall scheme viability for the project has been advised externally, tested and includes all anticipated lifecycle expenditure on the project to retain the quality of the homes for a full 30-year period. All other Phase 1 costs including legal and advisory costs have been allocated a reasonable and realistic budget and will be monitored monthly in line with the monthly reporting and monitoring cycle across the development team.
Failure to secure the team required to successfully client the delivery of Ebury Phase 1	Subject to the appointment of the client monitoring team, the internal and external team are all in place and well cemented to ensure the successful delivery of this programme. Ongoing resourcing reviews and monitoring of external consultant performance is part of the regular project team and Programme Board reviews.

14. Westminster Housing Investments Limited (WHIL)

14.1. The Board of the WHIL has agreed in principle to the acquisition of the intermediate rent units in Phase 1 subject to the commercial and financial arrangements described fully in Appendix 1. The purchase of the intermediate rent units in Phase 1 meets the WHIL business plan objectives as it facilitates and supports a Council lead regeneration solution for Ebury and enables the long-term ownership within the Council's group. Importantly, it also enables tenure inclusive delivery arrangements for Phase 1 that meets the local housing requirements on Ebury that we know, through earlier soft market testing exercises, are not attractive to external partners.

- 14.2. As confirmed within Appendix 1, the funding arrangements required to enable the acquisition of the intermediate rent units by WHIL is affordable to the General Fund and offsets the overall financial impact to the HRA of Phase 1 as it represents a capital receipt to the HRA receivable on practical completion.

15. Financial Implications

- 15.1. Phase 1 of the scheme is being carried out by the HRA with scheme costs being offset by Affordable Housing Fund, capital receipts from the private for sale units and a receipt from the sale of intermediate units to Westminster Builds. It is currently assumed that Phase 2 will be delivered outside of the HRA by the Council's wholly owned development company, Westminster Builds. Under this scenario the company will finance scheme costs offset by capital receipts from the sale of private units and sale of social units back to the HRA. The delivery mechanism for Phase 2 will be brought forward for consideration as part of an OBC in Autumn this year.
- 15.2. The latest full scheme appraisal shows that the scheme deficit has increased from £85m as per the position reported as part of the 2021/22 budget setting process to £111.52m. The current scheme financial position is set out in Table 4.

Table 4: Overall Scheme Viability

EBURY SCHEME VIABILITY				
	Phase 1	Phase 2a	Phase 2b	Total
Total Development Costs	£173.36m	£164.33m	£193.57m	£531.26m
Total Development Income	(£121.37m)	(£161.01m)	(£195.89m)	(£478.27m)
Development Deficit	£51.99m	£3.32m	(£2.32m)	£52.99m
Total HRA Costs	£115.89m	£18.41m	£29.23m	£163.53m
AHF	(£105.00m)	-	-	(£105.00m)
Total HRA Deficit	£62.88m	£21.73m	£26.91m	£111.52m
Annual interest Cost at stabilisation	£1.64m	£0.59m	£0.73m	£2.96m
Net income at stabilisation	£0.29m	£0.40m	£1.21m	£1.90m
Interest cover ratio-ICR	18%	68%	166%	64%
Annual Revenue Deficit to HRA	£1.35m	£0.19m	(£0.48m)	£1.06m
Unaffordable Capital Debt to HRA	£51.43m	£7.30m	(£18.40m)	£40.33m

- 15.3. The scheme deficit of £111.5m is assumed to be financed by additional HRA borrowing with an annual finance cost of £2.96m. Income from residential and commercial units within Ebury is estimated at £1.9m. This will only partially cover the annual finance costs generated by the deficit on the scheme at a

63% Interest Cover Ratio (ICR), leaving an annual revenue shortfall of £1.06m for the HRA.

- 15.4. The position for Phase 1 is particularly challenging as it delivers a greater proportion of affordable units compared to future phases. 63% of the Phase 1 units are affordable and largely meet the local re-housing requirements on the estate to enable the delivery of the decant requirements of future phases. Whilst the current overall scheme viability position shows a deficit of £111.5m, there is sufficient scope within Phase 2 to consider a range of mitigation measures to reduce the deficit and improve the viability of the scheme.
- 15.5. The total capital spend on Ebury to 31 March 21 is £103.6m. Of this sum, £74m has been spent on acquisition costs and £29m on demolition and pre works costs. The report is requesting to spend a further:
- £111m on the main works construction costs and up to £36m as the balance of estimated leaseholder acquisition costs; and
 - Approves expenditure for the compliance monitoring team for Phase 1 delivery of £1,709,918.
- 15.6. The Phase 1 contingency of 5% on costs or £7.58m shown within the viability position above will need to be drawn down where necessary via separate approval.

16. Staffing Implications

- 16.1 There are no staffing implications as a result of the recommendations within this report.

17. Legal Implications

- 17.1 There are a number of legal considerations and implications as a result of the approvals sought within this report as follows:
- (a) **Phase 1 Design and Build (D&B) contract:** BYUK was appointed under a regulated public procurement process undertaken in 2019 pursuant to the Public Contracts Regulations 2015 using the competitive procedure with negotiation. The Phase 1 works D&B contract was part of that procurement process and its terms were subject to the pre-construction services agreement in particular in respect of finance specification and costs, that process has now completed.
- (b) **Land disposal:** the land in Phase 1 is accounted for in the Council's HRA. Though it is anticipated that the land will be appropriated for 'planning purposes' it is also anticipated that it will be re-appropriated for 'housing purposes' and

thereafter be accounted for in the HRA. The Council in these circumstances will only be able to dispose of homes to WHIL with the consent of the Secretary of State (SoS) under Section 32 of the Housing Act 1985 (HA 85) (this the Council giving WHIL an option or agreement for lease to acquire the Phase 1 intermediate homes).

- (c) A specific consent (meaning in response to an application from the Council) can be given by the SoS. Alternatively, the SoS has published 'pre-approved' consents for the disposal of 'HRA land' which if the relevant consent conditions are complied with are deemed to fulfil the requirements of obtaining the SoS's consent under Section 32 of the Housing Act 1985 (s32 HA 85). These are termed the General Housing Consents 2013. Officers are considering whether to approach Ministry of Housing, Communities & Local Government (MHCLG) to discuss the merits of applying for a specific consent. This is subject to other matters which relate to the timetable for appropriating for planning purposes.
- (d) The Executive Director for Growth, Planning and Housing in agreeing to the disposal (including any agreement for lease) will need to be satisfied that s32 HA 85 has been complied with.
- (e) **Subsidy control:** The disposal of the completed Phase 1 intermediate units to WHIL is at tenanted market value. This is distinct from open market value which therefore represents a subsidy to WHIL by a discounted land disposal. This subsidy will be lawful providing the current subsidy control regime is complied with. This is set out in the EU-UK Trade and Cooperation Agreement as implemented into UK law via section 29 of the European Union (Future Relationship) Act 2020. The subsidy control regime stipulates that affordable housing, such as the intermediate units, qualify as what is termed "services in the public economic interest" (SPEI). The discounted land disposal of the intermediate units will therefore need to be documented when the disposal documents are entered into.
- (f) The UK Government has published a Subsidy Control Bill which we anticipate will become law in 2022. This changes some of the detail in relation to SPEI but does not fundamentally change the requirements.
- (g) **Compliance Monitoring Team:** Recommendation 2.2.4 of this report seeks authority for the appointment of CJ&P LLP for the purposes of provision of compliance monitoring services. CJ&P LLP have been procured through a Public Contracts Regulations 2015 compliance framework. The proposed contract is for a period of 2 years with the option to extend for a further period of 3 years. The value of the proposed contract with CJ&P LLP is estimated at circa £1,760,410 for the initial term of 2 years. Should the Council elect to exercise the right to extend for a further period of up to 3 years, the estimated value of the extended period is estimated at circa £5,701,500.85. Therefore, the total value of the contract including the options is estimated at circa £7,461,910. The value of the proposed contract is included within the total scheme costs

estimated at circa £289.26m. Finally, it is clear from the recommendation that CGRB is yet to take a view on the recommendation from the evaluation team. The Cabinet Member and officers should therefore be aware that the approval being sought is conditional on CGRB endorsement of the recommendation from evaluation team and subject again to the approval of the relevant Executive Leadership Team member.

18. Consultation

- 18.1. Extensive consultation has been conducted throughout the development of this strategically important scheme. From 2017 a Strategic Resident-led Steering Group, the Ebury Bridge CFG, has been key to decision making in areas such as tenure distribution, service specification and scheme delivery options. Members of this group have taken part in the procurement process which selected BYUK ensuring residents had visibility and understanding throughout the process. The approach BYUK will adopt when liaising with Ebury residents and the support they have pledged to provide was an important area assessed by residents when reviewing their bid.
- 18.2. Over the last six months residents have been consulted on what services should be provided to sustain the new high quality environment on the new estate. An on-site, tenure blind management provision was a key priority throughout these discussions and estimated service charge costs have been shared with the CFG. Members of the CFG will now take part in market engagement with estate management providers to ensure the assumptions around delivery match anticipated costs.
- 18.3. Ahead of the submission of the hybrid planning application in July 2010, extensive consultation was undertaken with local residents and groups living within close proximity of the estate. This structured engagement gave stakeholders an opportunity to feedback on proposals. This resulted in significant amendments to design that were reflected in the final submission to the Local Planning Authority. 78% of respondents during the pre-planning consultation were supportive of the scheme and only 24 objections were received during the statutory planning consultation period.
- 18.4. Churchill Ward Councillors have been consulted regularly throughout the development of the scheme. The delivery of a large proportion of replacement social units in Phase 1 was welcomed by Ward Councillors as this would benefit those households waiting to return to the estate. Ward Councillors also acknowledged the extent and consistency of the engagement with residents and local groups. Work is also being undertaken to further support those households who remain on the estate to understand their rehousing options and the duration they will need to move before returning to their newly built home.

- 18.5. Over the coming months the team will engage with estate residents on a number of important areas of the scheme. Engagement work around the reserved matters planning application is underway with feedback sought on the boundary treatment on the edges of the development, non residential uses and the new public squares. This work will continue ahead of an anticipated planning submission in January 2022.
- 18.6. Section 105 consultation will also be undertaken with residents around how new homes will be allocated in the new development. The team will also consult residents on any changes proposed to the delivery of housing management services.

19. Equalities

- 19.1 The Equality Act 2010 requires the Council when taking decisions to have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation or other prohibited conduct;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those that do not share it;
 - (c) foster good relations between those who share a relevant characteristic and those that do not share it.
- 19.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex sexual orientation.
- 19.3 The Council has an Equality Impact Assessment (EQIA) a copy of which is appended to this report at Appendix 3. This is reviewed and updated around milestones in the programme. The Council needs to pay due regard to its findings when exercising its functions with regard to the progression of Phase 1 Ebury. The conclusions from this report are summarised in Table 5.
- 19.4 When procuring the contract with BYUK, specific consideration was given to how the contractor will meet both the Council's equality duties and also the requirements stipulated in the Considerate Constructors scheme. The Considerate Constructors Scheme has made inclusivity a key objective and is actively requiring participants to recruit from under-represented groups. Bouygues have committed to promoting employment opportunities to both Black, Asian and minority ethnic (BAME) communities and women, as both groups are under-represented in construction workforces.
- 19.5 Throughout the delivery of Phase 1 of the renewal scheme, we will require the contractor to work within our expected equality duties. Examples of this will include ensuring homes and walkaways are accessible for people physically

less able and that communication material is translated into community languages where required.

Table 5: Key Conclusions from the Ebury EQIA

Finding	Recommendation
Social infrastructure and access to services: The renewal process involves temporary and permanent resettlement of residents and demolition of housing and community resources.	This impact is considered to be managed overall through the mitigation measures set out for residents in the Policy for Tenants in Housing Renewal Areas and Policy for Leaseholders in Housing Renewal Areas.
Access to finance and affordable housing: Where renewal schemes require residents to resettle, it can lead to an increase in financial outgoings due to costs associated with moving and obtaining new housing	This impact is considered to be managed overall through the mitigation measures set out for residents in the Policy for Tenants in Housing Renewal Areas and the Policy for Leaseholders in Housing Renewal Areas.
Appropriate and accessible housing: Certain groups who currently reside on the estate may experience adverse effects if temporary or permanent rehousing is not adequate for their needs.	This effect is considered to be managed overall through the mitigation measures set out for residents in the Policy for Tenants in Housing Renewal Areas and the Policy for Leaseholders in Housing Renewal Areas.
Health effects: Evidence has suggested health effects related to housing demolition, such as changes to air quality and noise pollution and effects related to housing displacement, such as social isolation, can arise for particular groups that are represented within the estate and local area.	This impact is considered to be managed overall through the mitigation measures set out.
Safety and security: In the lead up to the renewal process and during the decanting and demolition of properties in the area, properties will be vacated and can fall into disrepair.	This impact is considered to be managed overall through the mitigation measures set out.
Accessibility and mobility in the area: Evidence has indicated that during construction the accessibility and mobility of the local area can be affected.	The consultation process highlighted that some stakeholders are particularly concerned around parking. There are concerns that the scheme will have a negative impact on existing parking spaces on surrounding local roads. This impact is considered to be managed overall through the mitigation measures set out.
Information and communication: The process of regeneration often requires two-way communication between residents and the council and or housing authorities for residents to understand the options available to them.	This impact is considered to be managed overall through the mitigation measures set out.
Loss of business and/or employment: The renewal process may result in the temporary or permanent closure and/or relocation of businesses.	This impact is considered to be managed overall through the mitigation measures set out.
Impact of redundancy on health and wellbeing: Involuntary job loss due to redevelopment and renewal can have differential health and well-being effects for certain groups.	This impact is considered to be managed overall through the mitigation measures set out.
Difficulty accessing commercial finance: For businesses, redevelopment and renewal may result in relocation or closure	This impact is considered to be managed overall through the mitigation measures set out.
Reduced job satisfaction: Redevelopment may result in the relocation of businesses	This impact is considered to be managed overall through the mitigation measures set out.
Improved housing provision: Renewal can lead to improvements in housing provision within the regeneration area therefore improving appropriateness, accessibility and affordability, as well as its quality and efficiency in energy consumption.	The regenerated estate will provide improved housing, with respect to appropriateness, accessibility and affordability.
Provision of community resources and improved social cohesion: Community resources provide	The regenerated estate will provide new community resources including a community space that will provide a mix of uses.

important places of social connection and promote wellbeing for many group	
Improved public realm and green space Renewal offers an opportunity to improve the public realm. The ability to access and use the public realm is vitally important to ensuring people feel that they are active members of their society.	The regenerated estate will provide additional green space and new play space.
Tackling crime and disorder: Levels of crime have in part been attributed to the urban environment.	The regenerated estate will provide an opportunity to incorporate new security measures.
Improved access, mobility and navigation: Renewal processes open up opportunities to create spaces and places that can be accessed and effectively used by all, regardless of age, size, ability or disability, using principles of inclusive design.	The regenerated estate will improve connectivity and accessibility across the estate.
New employment opportunities: Renewal can act as a means of promoting economic growth and supporting job creation.	The regenerated estate will provide new retail space and opportunities for employment through construction jobs, meanwhile use spaces and apprenticeships secured via social value commitments.

20. Next Steps

20.1 The key next steps to enable the successful delivery of Ebury Phase 1 are as follows:

- Secure the GLA stage 2 approval and enter into the unilateral undertaking;
- Successfully conclude all pre-commencement conditions as required by the unilateral undertaking;
- Execute the Phase 1 contract with BYUK;
- Complete all necessary Phase 1 site preparations; and
- Successfully commence the delivery of Phase 1 homes in accordance with the programme.

21. Appendices

Exempt Appendix 1 – Ebury Bridge Full Business Case Phase 1

Exempt Appendix 2 – Gardiner & Theobald Value for Money Report

Appendix 3 – Ebury Bridge Equalities Impact Assessment

Exempt Appendix 4 – Compliance Monitoring Team Procurement Results and Recommendations

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

Vikki Everett – Head of Development

E: veverett@westminster.gov.uk M: 07971 017583

For completion by the **Cabinet Member for Communities and Regeneration**

Declaration of Interest

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

Signed: _____ Date: _____
NAME: **Councillor Heather Acton, Cabinet Member for Communities and Regeneration**

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 recommendations in the report entitled **Ebury Phase 1 FBC** and reject any alternative options which are referred to but not recommended.

Signed

Councillor Heather Acton, Cabinet Member for Communities and Regeneration

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:

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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, the Executive Director – Finance and Resources, and, if there are human 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 Smart City**

Declaration of Interest

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

Signed: _____ Date: _____
Councillor Paul Swaddle, Cabinet Member for Finance and Smart City
NAME: _____

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 recommendations in the report entitled **Ebury Phase 1 FBC** and reject any alternative options which are referred to but not recommended.

Signed

Councillor Paul Swaddle, Cabinet Member for Finance and Smart City

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.

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