

CABINET PROCUREMENT & INSOURCING COMMITTEE

UPDATE & BRIEFING REPORT

Title of Report	Update on the Outcome of the Procurement for a Main Contractor to deliver a Mixed Tenure Estate Regeneration Scheme Kings Crescent Phases 3&4 - for noting.
Key Decision No.	N/A
CPIC Meeting Date	6 November, 2023
Classification	Open with exempt appendices. By Virtue of Paragraph(s) 3, Part 1 of schedule 12A of the Local Government Act 1972, appendix 1 is exempt because it contains information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information
Ward(s) Affected	Brownswood
Cabinet Member	Deputy Mayor Guy Nicholson
Key Decision	No
Group Director	Rickardo Hyatt
Contract Value, <u>both</u> Inclusive of VAT and Exclusive of VAT (for the duration of the contract including extensions)	£115,575,136
Contract Duration (including extensions e.g. 2 yrs + 1 yr + 1 yr)	2 years + 3 years

1. **INTRODUCTION**

- 1.1 The site to be developed on the Kings Crescent estate has been cleared since the last demolition in 2013. The development of the site represents an opportunity to complete the regeneration of Kings Crescent which, apart from the introduction of new-build mixed tenure homes, also includes the refurbishment of the existing blocks and delivers improved amenity space, public realm improvements, replacement community space, new commercial space and new office/workspace.

Kings Crescent Phases 3&4 comprises the following:

- 116 outright sale homes
 - 75 shared ownership homes
 - 28 social rent homes
 - Refurbishment works to existing blocks (174 homes)
 - A new community facility
 - 480m² of retail commercial space
 - 500m² of office/workspace
 - Associated public realm and landscape works including improved facilities for play and recreation.
- 1.2 In addition to the works described, the Council has incorporated a general repairs, maintenance and component renewal into the package of works in line with the provisions of the Housing Asset Management Strategy. This includes external works, works to communal areas and works to specialist mechanical and electrical services as identified by condition surveys, to be undertaken prior to works commencing. The budget for this work, allowed for in the Housing Asset Management Strategy, will be apportioned to this Regeneration scheme. This ensures a joined-up approach to capital investment, reduces overall disruption to residents and should offer better value for money compared to undertaking works separately.
- 1.3 At its meeting of 18 July 2011, the Council's Cabinet approved the key parameters of the Estate Regeneration Programme. The Programme was updated and approved by Cabinet in March 2014, October 2015, April 2019, and a further update was provided and approved by Cabinet in December 2022.
- 1.4 At its meeting on 18 July 2016 the Council's Cabinet agreed the Sales and Marketing Framework, authorising the Director of Regeneration to implement the Sales and Marketing Framework in relation to shared ownership and outright sale disposals for both the Estate Regeneration and Housing Supply Programmes, and authorising the Director of Strategic Property and the Director of Regeneration to dispose of leasehold and freehold interests in the

shared ownership and outright sale homes developed or to be developed as part of those Programmes.

- 1.5 A detailed planning application for Phases 3&4 received full planning consent in July 2021. The consent enables the Council to increase the amount of housing to be delivered in comparison to the Kings Crescent masterplan and as set out in the Overarching Estate Regeneration Programme Unilateral Undertaking (UU), which was agreed by the Planning Sub-Committee in April 2014.
- 1.6 At its meeting on 6 December 2021, Cabinet Procurement and Insourcing Committee (CPIC) approved the recommendation to award the main works contract to Durkan, subject to a Section 20 leasehold consultation. Durkan had submitted the most economically advantageous tender to construct the scheme at the time. In February 2022, during the Section 20 period, Durkan advised the Council they were unwilling to hold their price.
- 1.7 Following legal advice, the other bidder Mulalley was asked whether it would hold its price. As Mulalley was unable to do so the Best and Final Tenders stage was reopened in March 2022 providing an opportunity for both bidders to provide revised tender prices.
- 1.7 At its meeting on 22 April 2022 CPIC received a report outlining the impact of the prevailing volatile market conditions requiring the Invitation to Submit Final Tenders to be reopened. CPIC agreed to the delegation of the Contract Award to the Group Director, Climate, Homes and Economy, in consultation with the Group Director Finance and Corporate Services.
- 1.8 On 14 April 2022, Mulalley had submitted the most economically advantageous tender for the reopened Best and Final Offer stage.
- 1.9 Since CPIC approval of 22 April 2022 to delegate the contract award to the Group Director of Climate Homes and Economy, a Delegated Powers Report was approved on 26 August, 2022 enabling the Council to enter into a main contract. On 5 September 2023, a contract was entered into with Mulalley & Co.

2. MOBILISATION UPDATE

- 2.1 The successful tender price received in September 2021 exceeded the Council's approved budget, as set through an internal Gateway process. To address the impact on the viability of the project, the Council has incorporated a process to update the design of the scheme from RIBA Stages 2- 3+ and thereafter design the scheme to Stage 4a. The design stages also incorporate a 'cost optimisation' process. This process aims to reduce construction costs whilst maintaining qualitative standards, and has been used successfully on two recent Housing Regeneration and Delivery projects.

- 2.2 A number of new regulations and emerging guidance at a national level has necessitated a review and update to the planning approved design of Kings Crescent Phases 3 & 4. For example, new Building Regulations were introduced in June 2023, including Part B - Fire Safety; Part F - Ventilation; Part L - Energy Conservation; Part O - Overheating; and Part S - Electric Charging Vehicle Points. In December 2022, the Government consulted on the proposals for introducing second staircases to blocks above 30m, and in July 2023, the Government signalled its intention to mandate the requirement for second staircases to be introduced to all blocks over 18m (6 storeys). All of these elements will impact on the design of Kings Crescent Phases 3&4.
- 2.3 To address the issues set out in 2.1 and 2.2 above, the contract with Mullaley facilitates a prescribed programme period for cost optimisation, and for updating the design to achieve compliance with the building safety and sustainability standards outlined above.
- 2.4 A programme of enabling works which includes ground investigations, ground obstruction removal, utility services diversions and service connections to the existing combined heat and power plant and incur additional build costs . Completing these critical pre-construction phase works as proposed, de-risks the project during the construction phase and offers the advantage of shortening the main construction works period, as well as providing associated savings.
- 2.5 The table below sets out the programme of redesign and cost optimisation that are required to address financial and building regulatory changes.

Activity	Programme
Cost Optimisation and redesign	
Mobilisation of the contractor's external team completion	By October 2023
Building Regulations compliance audit completion	By December 2023
Cost optimisation process completion	By January 2024
RIBA Stage 2 redesign completion	By May 2024
RIBA Stage 3 redesign completion	By November 2024
Minor Amendments Section 73 approval period	September 2024- November 2024

Building Safety Regulator approval period	December 2024- March 2025
RIBA Stage 4a completion	By August 2025
Enabling works	
Site surveys completion	By February 2024
Contamination investigations completion	By March 2024
Services infrastructure investigation (existing blocks) -completion	By June 2024
Utility disconnections and diversions period	February 2024- October 2024
Ground obstructions probe and remediation period	February 2024- October 2024
Relocation and repurposing of Vince Murrain community centre	March 2024- October 2024
Site levels formation for new build blocks	January 2025- June 2025
Site set up	By August 2025
Main new build construction and refurbishment phases start	October 2025 onwards

3. VARIATIONS

- 3.1 Residents of Kings Crescent Estate have been updated on the project regularly by newsletters and by individual letters in January 2022. In July 2023, a newsletter was distributed to residents, which:
- set out the proposals to deliver the project in light of the economic conditions and period of regulatory change;
 - Outlined the associated process and revised timeframes for the main construction works start on site; and,
 - Provided an invitation to an open Residents' Steering Group meeting, which was held later in July 2023.
- 3.2 Mulalley's construction director and head of social value led workshops at the open Residents' Steering Group (RSG) which was well-attended. Residents

received a presentation on the reasons for the design update and cost optimisation process and thereafter were able to explore site logistics, social value ideas and receive a refresher on the scheme masterplan. Residents were also encouraged to fill out a feedback form and to indicate interest in future workshops.

- 3.3 As well as workshops and open RSG meetings during the pre-construction phase there will be a 'meet the contractor' event prior to the enabling works starting.

4. FINANCE CONSIDERATIONS

- 4.1 During the tender period, exceptional levels of construction price and tender price inflation and market volatility were experienced arising from the post-pandemic supply chain blockages, Brexit and the Ukraine war which, in turn, had an adverse impact on the returned tenders and scheme viability. Further information is provided in Exempt Appendix 1.

- 4.2 To improve scheme viability, the following funding sources have been pursued.

GLA grant funding

- 4.2.1 The intention was to achieve a start on site for the main contract works in March 2022 and to draw down GLA grant funding within the 2021/22 year. However, this has not been possible due to the circumstances outlined in this report, relating to both the unprecedented rise in construction costs, and the changes to regulations in reference to building safety and sustainability, which must be addressed. Recent negotiations with the GLA regarding the grant rate received by the Council for some estate regeneration schemes has established a higher grant rate, which in turn has resulted in the Council being able to confirm allocations on two estate regeneration projects. The Council has submitted proposals for Kings Crescent to be included in its pipeline of schemes within the GLA's Continuous Market Engagement 2021-2026 programme, which may result in the application of a higher grant rate for the 28 social rent homes in the scheme, thereby supporting an improved viability of the scheme

Brownfield Land Release Funding

- 4.2.2 The Brownfield Land Release Funding bid round under the Department for Levelling Up, Housing and Communities (DLUHC) was opened to local authorities seeking to unlock housing delivery on their own brownfield land. It was targeted at boroughs with high housing needs and for projects where the costs of resolving site-specific conditions and related technical requirements are hindering viable delivery. It is linked to specified enabling works, which must be in contract by March 2024, and also to March 2027 for the main construction works to start. The funding package was therefore considered a

good fit to contribute to the mitigation of the current viability challenges impacting the project.

- 4.2.3 A bid in the sum of £1,824,020 was submitted on 31 March 2023, and the Council was notified of the bid's success in August. The success signals confidence in the Council's ability to deliver a well-designed and sustainable project and the funds will both enhance the project viability and open up opportunities for the wide regeneration programme in future bidding rounds.

5. CONTRACT MANAGEMENT ARRANGEMENTS AND KPIS

Resources and Project Management (Roles and Responsibilities):

- 5.1 The necessary resources and skills to ensure that the project will be successfully managed have been identified and are either available within the Council or have been procured externally.
- 5.2 The project will be managed by a Project Manager in Regeneration who will be overseen by the Head of Service for Housing Delivery. The project delivery team is:
- Project Sponsor - Assistant Director, Housing Regeneration and Delivery
 - Project Head of Service – Head of Housing Regeneration Delivery - North
 - Project Lead – Interim Strategic Project Manager Delivery North
 - Design Advice – Regeneration Strategic Design Team
 - Employer's Agent- Potter Raper Ltd
 - Cost consultants/Quantity Surveyor- Potter Raper Ltd
 - Planning consultant - Tibbalds
- 5.3 During the cost optimisation, redesign and enabling works stage, along with the construction period, the project will be managed on a day-to-day basis by the Project Manager in the Council's Housing Regeneration and Delivery team. The building contract will be administered by the Council's Employer's Agent. The Employer's Agent and Quantity Surveyor(QS) team will carry out monthly valuations of works completed on site and certify the value of these works. During the Pre-Construction Phase, the Employer's Agent will attend contract Design Team Meetings, which will be programmed by the contractor, but are likely to take place at least monthly (or as required) in order to meet the contract programme.
- 5.4 Mulalley's Construction Director and Contract Manager report monthly to the Council's Strategic Project Manager, Employer's Agent, QS at project team meetings. Monthly updates are provided to the Head of Housing Delivery - North and the Council's Assistant Director, as the project sponsor.

5.5 Representatives with the Council's Regeneration Strategic Delivery team will attend Mulalley's design review meetings and work collaboratively with their external design team during the period of redesign and cost optimisation, to ensure that the Council's design quality standards are maintained.

5.6 The key performance indicators (KPIs) that are applicable to Section 2 of the contract are as set out in the table below:

KPI subject	Measurement	Monitoring method & info responsibility	Metric
Programme	Total days ahead or delayed	Contractor to update the programme on a monthly basis and provide reasons for delays. EA to assess the Contractor report and provide its own final monthly review.	Nr. of days
	Accuracy, timelessness, and quality of Contractor's programme/ delay reporting	EA to assess monthly	Qualitative assessment
Cost	Divergence between original cumulative forecast and last valuation.	Contractor to make applications. EA to report monthly.	£ difference on total gross value
	Divergence between application and agreed valuation (or Pay Less Notice amount)	EA to value and report monthly	£ difference on total gross value
	Divergence between last monthly forecast and last valuation	Contractor to make applications. EA to report monthly.	£ difference on total gross value
Change Control	Contractor proposed changes – Quality and timeliness design, time and cost information	EA to assess monthly	Qualitative assessment
	Employer proposed changes – Responsiveness of	EA to assess monthly	Qualitative assessment

	design and cost information (including detail and breakdowns)		
Quality of Construction	Assessment of site inspector report – seriousness of quality concerns identified.	EA to assess monthly	Qualitative assessment
	Assessment of Contractor response to remediating site inspector concerns	EA to assess monthly	Qualitative assessment
	Defects – number remedied within timeframes	Contractor and LBH to provide information to EA for monitoring and report monthly from practical completion	Nr of defects
Design	Timeliness of general design information release to allow sufficient time for Employer review	Contractor to report days early or delay from information release schedule targets. EA to check and report	Qualitative assessment
Health and Safety	Qualitative assessment of Contractor H&S approach including site assessment by PD and response to H&S concerns including accidents and near misses	Contractor to provide own H&S assessments and information. EA and PD to assess	Qualitative assessment
Waste Management	Percentage of waste diverted from landfill	EA to assess monthly	% diverted
	Initiatives undertaken to minimise waste arising from deliveries to site	EA to assess monthly	Qualitative assessment

6.

Employment and Training	Percentage of local labour (aiming for 30%)	Contractor to provide monthly labour return	Target met/ exceeded
	Number of apprentices	Contractor to provide monthly labour return	Target met/ exceeded by what percentage
	Confirmation of London Living Wage	Contractor to report monthly on checks and confirm London Living Wage compliance	Yes/ No
	Quality of engagement and communication with Hackney works	Contractor and Hackney Works (through LBH Project Officer) to report. EA to assess	Qualitative assessment
Neighbour Satisfaction	Number of complaints, and quality of response	Contractor to provide information. EA to assess monthly	Qualitative assessment
	Initiatives undertaken by the Contractor to ensure engagement and communication with neighbours.	Contractor to provide information. EA to assess monthly	Qualitative assessments
Supply Chain Management	Fair payment of subcontractors	Days behind or ahead of payment schedule and total value of arrears	Qualitative assessments
	Fair payment of subcontractors	Percentage of contractors paid on or before time provided each month	Qualitative assessment

SUSTAINABILITY OUTCOMES

Procuring Green

- 6.1 The scheme will provide high quality housing, workspace, retail, and community space, as well as new and improved landscaping and public realm, enhancing

the ecological value and biodiversity of the project. The scheme also aligns with the Council's Transport Strategy and TfL's Healthy Streets Indicators, aiming to prioritise walking and cycling, providing safe environments with opportunities for play, shade and shelter, and opportunities to rest in a clean environment

6.2 The energy strategy meets the London Plan and Hackney Local Plan policy standards on energy and be compliant with the newly introduced Part L regulations for energy by:

- Reduction in carbon emissions against Building Regulations Part L 2022 by 37.9% for residential, 26.7% for non-domestic (36.5% combined) achieved by:
 - Enhanced U-values of walls, floors, roofs and windows;
 - Improved air tightness through reduced air permeability rates;
 - Reduced need for artificial lighting;
 - Incorporation of low energy light fittings;
 - Incorporation of mechanical heat and ventilation recovery system (MHVRs);
 - Incorporation of advanced lighting and space conditioning controls;
 - Incorporation of heat and electricity consumption devices for individual homes;
 - Minimising internal heat generation through energy efficient design;
 - Reducing the amount of heat entering the buildings during summer through orientation of the glazing, external shading and the provision of internal blinds;
 - Consideration of the carbon dioxide emissions associated with gas-boilers;
 - Supplying energy efficiently by connecting to the estate-wide combined heat and power (CHP) system which will enable potential link-up with district heat network;
 - Provision of photovoltaic panels (PVs); and
 - Achievement of BREEAM 'Excellent' rating on the community and commercial spaces.

6.3 As above, further design work is currently being undertaken to ensure that the scheme also complies with new Building Regulations Part F - Ventilation; Part L - Energy Conservation; Part O - Overheating; and Part S - Electric Charging Vehicle Points.

6.4 The London Plan and Hackney Planning Policy standards on sustainability are achieved by:

- Effective Resource Management
- Re-use of vacant and developed land with an effective layout and scale;
- Efficient design of the massing and internal layouts;
- Enhanced ecology and biodiversity with associated landscaping;
- Use of responsibly sourced materials with low embodied carbon and

- Specification of water efficient fittings, limiting water consumption.
- Adaptation to Climate Change
- Provision of passive and active design to address overheating and demand for active cooling;
- Incorporation of Sustainable Urban Drainage Systems measures to address future risks of flooding.
- Pollution Management
- Adoption of a Site Waste Management Plan to reduce waste and pollution during the construction period;
- Adoption of suitable noise mitigation strategies including the provision of refuge areas for residents.

6.5 The scheme proposals have been designed and coordinated to connect into the existing energy centre completed in Phases 1&2. The CHP system and high efficiency boilers have been designed to take the load from connection to Phases 3&4 when designed and constructed.

6.6 The new-build element of the scheme will be car -free with substantial provision for cycle parking, a car club space and electric vehicle charging points.

6.7 The scheme will deliver homes which meet current regulatory requirements relating to sustainability, including Building Regulations and the London Mayor's Housing Supplementary Planning Guidance.

6.8 During the pre-commencement phase of the building contract, the site will be tested for contamination and remediated appropriately.

6.9 The recycling of construction waste and the development of a Site Waste Management Plan are mandatory. Mulalley will be obligated to minimise construction related disruption, for example dust nuisance to residents and neighbouring buildings.

Procuring for a Better Society

6.10 The appointed contractor will be required to provide local training and employment opportunities, for which a number of KPIs have been established. KPIs will be monitored regularly at site meetings. The contractor and Employer's Agent will provide information that will form the basis of each score, which will be documented at each meeting.

6.11 The appointed main works contractor will provide a draft Employment and Skills Plan to the Council for approval prior to works commencing on site. They will also prepare and implement an active programme for recruitment in order to achieve a local labour target of 25%. Under the terms of the contract the contractor must employ at least one apprentice per £2m of construction contract value, which reflects the Unilateral Undertaking requirement, and as previously agreed by CPC.

- 6.12 As part of the Unilateral Undertaking a sum of £101,234 will be paid as a planning obligation to Hackney Works, as a contribution towards the cost of training and supporting out of work residents into jobs during the construction of the development. A further sum of £55,558 will be paid as a contribution towards facilitating local people into end use ('operational phase') jobs provided through the operation of the commercial floorspace.

Procuring Fair Delivery

- 6.13 Tender documents issued to each bidder were identical, giving them equal opportunity to review and respond. Throughout the tender process bidders submitted clarification questions. Where a clarification was not commercially sensitive, the clarification and the Council's response was anonymised and issued to all bidders.
- 6.14 Each bidder was asked to comply with the Council's requirements with regard to the specification, local labour, employment and skills, and Fair Payment Charter. The appointed contractor has agreed to the Council's targets in these areas, including payment of the London Living Wage to all employees - a commitment also extended to their subcontractor supply chain - and cooperation with Hackney Works to promote diversity in their workforce.
- 6.15 KPIs have been agreed with the contractor and will be scored at agreed intervals during the construction period.

7. SOCIAL VALUE

- 7.1 The contract was signed in September 2023 therefore it is too early for social value agreed under the contract to have been delivered / achieved.
- 7.2 Mulalley has proposed that a Social Value Steering Group is set for Kings Crescent estate composed of a core group of representatives from the Council, Kings Crescent TRA, and Mulalley. Its main objective would be to allocate and / or resource estate wide community activities which optimise social value impact.
- 7.3 Mulalley has, to date, donated funds to support the TRA /Hackney Showroom activities at the Summer event, held in July ; and 100 staff resource hours at London Living Wage to support the TR's youth club activities.

8. LESSONS LEARNT

- 8.1 As above, the main contractor for Kings Crescent Phases 3&4 was procured during a period of steep inflationary rises in construction costs. This, combined with the swiftly changing landscape of legislation and guidance to address building safety and environmental sustainability requirements has meant that the construction sector has had to respond to significant changes over a short

period of time. We do not envisage the breadth of regulatory changes to continue, and indications from the market show that inflation is slowing which is likely to mean that we enter a more stable period for future delivery of housing regeneration projects.

8.2 However, the experience of the last few years has led the team to examine our procurement strategy for main contractors, and rather than requiring a fixed price for a fixed design, we are now looking to take forward more collaborative approaches with contractors, bringing them in at an earlier stage, and working together to realise acceptable savings within agreed parameters for good quality design.

9. **RISK**

9.1 As set out in 2.1 a specific delivery strategy was developed to address the unforeseen construction price inflation in the market. The associated risks are set out in the table below.

Risk/ Issue	Mitigation
<p>Financial/Programme: Construction price inflation peaked at unprecedented levels during the tender process.</p>	<p>The project team will exercise ongoing reviews of market conditions during the design and construction phases .</p> <p>The cost optimisation process is targeting a 10% reduction in construction costs and will focus on mitigating the effect of the inflation by programme savings or by alternative approaches to costly design elements and alternative products, whilst quality of design and product performance are maintained.</p> <p>Tangible savings will be sought through the economies of scale presented by c450 homes.</p>
<p>Financial/Reputational: Quality of the scheme does not meet expectations due to cost saving pressures. The result is reputational</p>	<p>A partnership approach with the contractor is being adopted which has developed a shared understanding of the cost optimisation strategy. There will be a</p>

<p>damage and/or increased cost to the Council.</p>	<p>focus on structural engineering elements that achieve significant savings without compromising on design quality.</p> <p>The Strategic Design team is resourced to work with the project team throughout the design and cost optimisation process.</p> <p>The project team structure is resourced to evaluate the design and cost impacts of proposed cost optimisation options.</p> <p>During the construction stage, the Employer's Agent team, including the Site Inspectors and the Clerk of Works will carry out regular site inspections to ensure work is completed in line with the specification documents.</p> <p>Stringent Key Performance Indicators (KPIs), monitoring the quality of delivery, have been included within the contract.</p>
<p>Financial/ Programme: Failure to address incoming building regulation changes results in failed planning and or build control /regulator approval.</p>	<p>The scope of the cost optimisation stage includes redesign for incoming changes to building regulations. Additional programme time to effect changes has been accepted.</p>
<p>Reputational/Financial: Inability to meet the GLA deadline for a start on site due to delays in awarding the contract for the main works, resulting in reputational damage and or withdrawal of grant funding.</p>	<p>The GLA has been informed of the impact of the unprecedented tender price inflation on the programme for achieving a construction start-on-site, and will be kept informed of the key pre- construction stage milestones.</p>
<p>Programme/Financial:</p>	<p>The contractor has demonstrated a thorough understanding of project risks, complexities and constraints,</p>

<p>Complexity of site or construction leads to increased cost and project delays.</p>	<p>and undertaken a thorough risk assessment .</p>
<p>Reputational: Failure to communicate the reasons for delay, the risks of delivery in volatile market conditions and the proposals to deliver the estate regeneration project in light of such circumstances causes reputational damage.</p>	<p>A corporate message individually tailored to the relevant estate regeneration specifics has been issued.</p> <p>Ongoing briefing to Councillors, residents and Resident Steering Group members are to be issued on a regular basis.</p> <p>Resident consultation on key design changes presenting a material planning change will occur during the cost optimisation and design update pre-construction phase and at the planning pre-application stage.</p>

9.2 Further information on risk management is provided in Exempt Appendix 1.

10. **NEXT STEPS**

10.1 As set out above the next steps are to complete the cost optimisation and design update changes, undertake enabling works as part of the Stage 1 contract. Further details are provided in Exempt Appendix 1 .

11. **COMMENTS OF THE INTERIM GROUP DIRECTOR OF FINANCE**

11.1 There are no financial implications directly arising from this briefing report. Kings Crescent Ph 3&4 currently makes a deficit in NPV terms that is more adverse than previously approved viability levels. This has mainly arisen as a result of the challenging construction market that is currently being experienced across the sector.

11.2 The cost optimisation period allows for collaboration with Mulalley to develop the design and seek value engineering (VE) savings wherever possible to bring down the cost of the project. The impact of the process needs to be balanced against the impact of current inflation rates as there is risk that any savings are eroded by inflation over the cost optimisation period.

11.3 As well as the impact of the savings achieved through cost optimisation, increased income is currently being sought. The Council is in engagement with the GLA to try and secure grant for each social rented unit, which would

exceed the Right To Buy subsidy currently assumed in the project's finances. In addition to this, the DHLUC's Brownfield Land Release Funding of £1.8m has been secured over the last few months.

- 11.4 Since the last Gateway, various financial assumptions changes have also been agreed by the S151 Officer and Capital Assets Steering Board, which will significantly improve viability.

12. COMMENTS OF THE ACTING DIRECTOR OF LEGAL, DEMOCRATIC AND ELECTORAL SERVICES

- 12.1 Under Appendix 3 of the Constitution Cabinet Procurement & Insourcing Committee is authorised by Cabinet to give detailed consideration on all issues relating to procurement practice and policy. It is therefore permitted to consider this Report.

- 12.2 Under a Delegated Powers Report dated 26th August 2022 the Group Director, Climate, Homes and Economy in consultation with the Group Director, Finance and Corporate Resources, agreed the award of contract for the Kings Crescent Phases 3 & 4 works. Details of the progress of the project since such date, and specifically the financial details of this matter, are set out in this Report.

13. PROCUREMENT COMMENTS

- 13.1 The Kings Crescent Phase 3 and 4 scheme was procured using the single stage design and build contracting approach with a break clause.

- 13.2 The procurement was carried out in line with the strategy set out in the business case report which approved the single stage design and build strategy via a Public Contracts Regulations 2015 compliant 'open tender' procurement route.

- 13.2 Contract Award' reports were submitted and approved initially by CPIC in April 21 and then following CPIC's delegation, in April 2022, to the Group Director, Climate, Homes and Economy, in consultation with the Group Director Finance and Corporate Services to award the contract, a further delegated award (Delegated Powers Report) was approved in 26 August, 2022 enabling the Council to enter into a main contract. On 5 September, 2023, a contract was entered into with Mulalley & Co.

- 13.3 The procurement team worked in collaboration with the project, legal and employer engagement teams and due consideration was given to the project objectives, contract terms and sustainability issues that needed to be addressed.

- 13.4 The overriding concerns which governed this contract award were the risks associated with cost inflation, changing regulations, supplier operating

preferences and fluctuating house market prices. The Council has endeavoured to achieve a flexible contract delivery option that mitigates all these risks and provides a reasonable position for delivering this project. The procurement exercise has allowed the Council to achieve the optimum combination of the project cost management and quality of build. The contracted supplier has committed to deliver wider sustainability benefits in the borough as an integral part of delivering the project.

13.5 It is the considered opinion of the procurement team that this exercise followed a compliant process.

APPENDICES

Exempt Appendix 1 - Kings Crescent Phases 3&4 Construction contractual arrange

Exempt

By Virtue of Paragraph(s) 3 Part 1 of schedule 12A of the Local Government Act 1972 this report and/or appendix is exempt because it contains Information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Report Author	Name: Ron Greenwood _____ Title: Strategic Project Manager _____ Email: ron.greenwood@hackney.gov.uk _____ Tel: 07714 170976
Comments for the Interim Group Director of Finance prepared by	Adam Jauncey _____ Strategic Finance Manager _____ adam.jauncey@hackney.gov.uk _____ Tel 0208 356 7922
Comments for the Acting Director of Legal, Democratic and Electoral Services prepared by	Patrick Rodger _____ Senior Lawyer _____ Patrick.Rodger@Hackney.gov.uk _____ Tel: (020) 8356 6187

Comments of the Procurement Category Lead	Name: Divine Ihekwoaba <hr/> Title: Construction and Environment Category Lead <hr/> Email: Divine.Ihekwoaba@hackney.gov.uk <hr/> Tel: 0208 356 4681
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