

OVERVIEW & SCRUTINY COMMITTEE

Monday, 26 September 2022 at 6.30 p.m., Committee Room One -
Town Hall, Mulberry Place, 5 Clove Crescent, London, E14 2BG

SUPPLEMENTAL AGENDA

This meeting is open to the public to attend.

Contact for further enquiries:

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London, E14 2BG
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the main agenda.


4. **UNRESTRICTED REPORTS 'CALLED IN'**

3 - 40

To consider the Call in requests regarding the following In Individual Mayoral Decisions (IMD):

1. **No. 302** - 3-5 Arnold Road: Approval to increase project budget to enable build contract to be awarded. 8th September 2022; and
2. **No. 303** - Redevelopment of Bancroft and Wickford Street Garages, Mayor's Executive Decision Making - Wednesday, 14th September 2022.

Agenda Item 4

Non-Executive Report of the: Overview and Scrutiny Committee 26 th September, 2022		 TOWER HAMLETS
Report of Janet Fasan Divisional Director Legal and Monitoring Officer		Classification: Unrestricted
<ul style="list-style-type: none">❖ Individual Mayoral Decision: No. 302 - 3-5 Arnold Road: Approval to increase project budget to enable build contract to be awarded. 8th September 2022.❖ Individual Mayoral Decision: No. 303 - Redevelopment of Bancroft and Wickford Street Garages, Mayor's Executive Decision Making - Wednesday, 14th September 2022.		
Originating Officer(s)	Joel West, Democratic Services Team Leader (Committee)	
Wards affected	Shadwell	

CONSIDERATION OF THE CALL IN's

Call in requests have been received on the following In Individual Mayoral Decisions (IMD):

1. **No. 302** - 3-5 Arnold Road: Approval to increase project budget to enable build contract to be awarded. 8th September 2022; and
2. **No. 303** - Redevelopment of Bancroft and Wickford Street Garages, Mayor's Executive Decision Making - Wednesday, 14th September 2022.

The following procedure is to be followed by the Committee for consideration of the Call In:

- i. Chair to invite a call-in member to present call-in.
- ii. Chair to invite members of the Committee to ask question.
- iii. Chair to Invite the relevant Executive Member to respond to the call-in.
- iv. Chair to invite members of the Committee to ask questions.
- v. Followed by a general debate.

It is open to the OSC to either resolve to take no action (which would have the effect of endorsing the original Cabinet decisions), or to refer the matter back to the

Cabinet for further consideration setting out the nature of its concerns and recommending an alternative course of action.

In accordance with the Council's call-in procedure rules, these two IMD's have been referred to the OSC for its consideration and to decide whether to refer them back to the Mayor for further consideration.

RECOMMENDATION

That the Overview and Scrutiny Committee (OSC) considers:

1. The contents of both attached reports, review both the Mayor's IMDs (provisional, subject to call in) arising; and
2. Decide whether to accept the decisions or to refer either of them back to the Mayor with proposals and reasons.

INTRODUCTION

Call in requests have been received on the following In Individual Mayoral Decisions (IMD):

1. No. 302 - 3-5 Arnold Road: Approval to increase project budget to enable build contract to be awarded. 8th September 2022; and
2. No. 303 - Redevelopment of Bancroft and Wickford Street Garages, Mayor's Executive Decision Making - Wednesday, 14th September 2022.

The above has been 'Called-In' by Councillor James King (signed also by Councillors Leelu Ahmed; Sirajul Islam; Amina Ali; Amy Lee; Shubo Hussain and Faroque Ahmed). This is in accordance with the provisions of the Overview and Scrutiny Procedure Rules of the Council's Constitution.

REASONS FOR THE CALL IN

The call-in requisition from the Councillors noted above has provided the reasons for the call-in. The reasons are replicated below:

An uplift of £4.49 million to fund the Arnold Grove site and an uplift of £3m Bancroft TMC and Wickford Street garages site could be funded from alternative sources.

For example, including but not limited to underspends within the Housing Revenue Account, reserves within the Housing Revenue Account, commuted sums from off-site affordable housing contributions which have not yet been spent.

The cancellation of the Gill Street site is unexplained and not necessary in order to free up HRA funds. The report provides no appraisal of the risks and outcomes of this decision.

The cancellation of the Gill Street development loses 15 units for social and affordable rents, a new community space and other new community facilities for the St. Vincent's Estate in Limehouse.

The decision cancels a scheme on which £848,000 has already been spent. This is a waste of council resources.

The Budget Monitoring report presented to July's Cabinet states there is an £8.3million underspend in the Housing Revenue Account, which will be allocated to Reserves if not used by the end of the year. [Appendix A - 2021-22 Period 12 Budget Monitoring Report.pdf \(towerhamlets.gov.uk\)](#)

This deficit could easily absorb the proposed increase in the Arnold Grove and Bancroft TMO/Wickford Street contracts without having to cancel an existing scheme.

Equalities Impact Assessment notes the need to build the 62 units at Arnold Grove and 33 units at Bancroft/Wickford Street but fails to assess the cancellation of the loss of 15 units at the Gill Street site.

ALTERNATIVE COURSE OF ACTION PROPOSED

The call-in requisition from the Councillors noted above has provided a proposed alternative course of action and the proposed alternative courses of action are replicated below:

Alternative course of action

To:

1. Fund the increase in the contract for the Arnold Grove and Bancroft TMO/Wickford Street Schemes from Housing Revenue Accounts Reserves.
2. Provide an impact and financial appraisal of funding the increase from different sources; and
3. Keep, amend, or cancel the Gill Street scheme after a transparent impact and financial appraisal.

WITHIN THE COUNCIL'S POLICY OR BUDGET FRAMEWORK

Tower Hamlets Council Strategic Plan 2022-2026 : Priority 2 states an ambition to 'deliver a minimum of 1000 social homes for rent per annum'.

Priority 8 states the council will 'Deliver a balanced budget, innovate to improve value for money, deliver modern services, and improve customer satisfaction across council services. This Mayoral Decision does not provide value for money when £849,000 of spend is to be scrapped.

RECOMMENDATION

That the Overview and Scrutiny Committee:

1. Considers the contents of the attached reports and review the decisions (provisional, subject to Call In) arising; and

2. Decide whether to accept the decision or to refer either decision back to the Mayor with proposals and reasons.

❖ **Appendix A** 302 - 3 to 5 Arnold Road, Mayor's Executive Decision Making Friday, 9th September 2022

❖ **Appendix B** 303 - Redevelopment of Bancroft and Wickford Street Garages, Mayor's Executive Decision Making Wednesday, 14th September 2022

Mayor's Executive Decision Making



Friday, 9 September 2022

1. **3-5 ARNOLD ROAD: BUDGET**

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Contact for further enquiries:

Joel West, Democratic Services Team Leader (Committee),

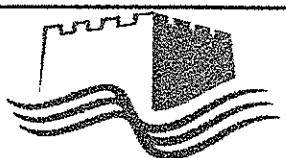
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Individual Mayoral Decision Proforma Decision Log No: <u>302</u>	 TOWER HAMLETS
Report of: Ann Sutcliffe, Corporate Director, Place	Classification: Exempt <i>Appendix</i>
3-5 Arnold Road: Approval to increase project budget to enable build contract to be awarded	

Is this a Key Decision?	No
Decision Notice Publication Date:	(Report author to state date of decision notice – either individual notice or within the Forward Plan) <i>N/A</i>
General Exception or Urgency Notice published?	Not required
Restrictions:	Contract sum should not be in the public domain until it is published on the Contracts Finder
Reason for seeking an Individual Mayoral Decision:	The contractor appointment is urgent to enable work to start on site before the planning consent for this scheme expires in December 2022. Approval for a budget increase to enable the contractor appointment in September means that this decision cannot wait until the next Cabinet meeting at the end of October 2022.

EXECUTIVE SUMMARY

The site at 3-5 Arnold Road is part of the HRA new council homes programme. Planning consent for the development of 62 new homes for social rent and 5 business units on the ground floor on the site was granted in November 2019. When the council's Dynamic Purchasing System for contractors had been set up, the procurement of a build contractor commenced in August 2021.

As a result of changing market conditions, including rising inflation, increasing energy costs and a shortage of material and labour, the tender price for this contract was higher than estimated. The Employer's Agent has confirmed that in the current climate, this delivers value for money. The total scheme costs now exceed the approved budget of £24.351m, requiring an additional budget of £4.449m to be allocated and approved to enable the contract to be awarded and the development to start on site before the planning consent expires in December 2022.

To fund the additional budget requirement within the funding available within the HRA Business Plan, one of the approved schemes in the programme will

be removed and its budget allocation of £7.600m will be available for re-allocation. This will provide a funding source for the Arnold Road scheme.

Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; implications for One Tower Hamlets; Risk Assessment; Background Documents; **and other relevant matters are set out in the attached report.**

DECISION

The Mayor is recommended to:

1. Approve an increase in the budget for the development of 62 new homes for social rent and 5 business units at 3-5 Arnold Road by £4.449m to £28.800m to enable the build contract to be awarded
2. Approve the removal of the Gill Street scheme and associated budget of £7.600m from the HRA new council homes programme budget of £337.7m as approved by Cabinet in July 2022 and use of £4.449m for the Arnold Road scheme
3. Approval of the contract award to Jerram Falkus for the development of the site at 3-5 Arnold Road, for the agreed contract sum

APPROVALS

1. **(If applicable) Corporate Director proposing the decision or his/her deputy**

I approve the attached report and proposed decision above for submission to the Mayor. I confirm that the Mayor and/or Lead Member have agreed to this decision being taken using this process.

Signed ...



..... Date 31 August 2022

2. **Chief Finance Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

Signed  Date ...2 September 2022

3. Monitoring Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

(For Key Decision only – delete as applicable)

I confirm that this decision:-

(a) has been published in advance on the Council's Forward Plan OR
(b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.


Signed ...  Date 2/9/22

4. Mayor

I agree the decision proposed in the recommendations above for the reasons set out in paragraph XX in the attached report.

Signed ...  Date 07/09/22

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Individual Mayoral Decision 8 th September 2022	 TOWER HAMLETS
Report of: Ann Sutcliffe, Corporate Director, Place	Classification: Exempt annexe
3-5 Arnold Road: Approval to increase project budget to enable build contract to be awarded	

Lead Member	Councillor Kabir Ahmed, Cabinet Member for Regeneration, Inclusive Development and Housing
Originating Officer(s)	Jane Abraham – Interim Capital Programme Manager (Housing)
Wards affected	Bromley North
Key Decision?	No
Reason for Key Decision	This report has been reviewed as not meeting the Key Decision criteria.
Forward Plan Notice Published	Not applicable
Exempt information	
Strategic Plan Priority / Outcome	Strategic Plan 2022-2026 Priority 2: Providing Homes for the Future

Executive Summary

The site at 3-5 Arnold Road is part of the HRA new council homes programme. Planning consent for the development of 62 new homes for social rent and 5 business units on the ground floor on the site was granted in November 2019. When the council's Dynamic Purchasing System for contractors had been set up, the procurement of a build contractor commenced in August 2021.

As a result of changing market conditions, including rising inflation, increasing energy costs and a shortage of material and labour, the tender price for this contract was higher than estimated. The Employer's Agent has confirmed that in the current climate, this delivers value for money. The total scheme costs now exceed the approved budget of £24.351m, requiring an additional budget of £4.449m to be allocated and approved to enable the contract to be awarded and the development to start on site before the planning consent expires in December 2022.

To fund the additional budget requirement within the funding available within the

HRA Business Plan, one of the approved schemes in the programme will be removed and its budget allocation of £7.600m will be available for re-allocation. This will provide a funding source for the Arnold Road scheme.

Recommendations:

The Mayor is recommended to:

1. Approve an increase in the budget for the development of 62 new homes for social rent and 5 business units at 3-5 Arnold Road by £4.449m to £28.800m to enable the build contract to be awarded
2. Approve the removal of the Gill Street scheme and associated budget of £7.600m from the HRA new council homes programme budget of £337.7m as approved by Cabinet in July 2022 and use of £4.449m for the Arnold Road scheme
3. Note the funding sources for this scheme
4. Approval of the contract award to Jerram Falkus for the development of the site at 3-5 Arnold Road, for the agreed contract sum
5. Note the Equalities Impact Assessment as set out in Paragraph 4

1 REASONS FOR THE DECISIONS

- 1.1 An increase in the project budget for the scheme at 3-5 Arnold Road is required to enable the build contractor to be appointed as soon as possible in order that start on site can be achieved before the planning consent expires in December 2022.
- 1.2 Funding for the additional budget requirement of £4.449m has been identified through the removal of an approved scheme in the HRA new council homes programme which has a budget allocation of £7.600m.
- 1.3 There have been significant cost increases during the past year including a rise in inflation, a surge in energy prices, an increase in the cost of materials following the pandemic and Brexit and an ongoing shortage of labour, which have resulted in higher tender prices than originally estimated.

2 ALTERNATIVE OPTIONS

- 2.1 A refresh of the approved HRA new council homes programme is due to be presented to Cabinet in October 2022, where new schemes will be added and budget allocations adjusted within the overall budget envelope that is

affordable within the HRA Business Plan. However, with the planning consent for this scheme due to expire in four months, approval for an increase in the budget is required sooner than October 2022 to ensure the development of 62 new homes for social rent on this site can proceed.

3 DETAILS OF THE REPORT

- 3.1 The site of William Brinson House in Arnold Road is part of the council's new homes programme. Until 2018, the two storey 1970's building was used by Vibrance, a commissioned service provider, to deliver adult social care, before they were relocated to alternative, more suitable premises.
- 3.2 A planning application for the development of the council-owned site in Arnold Road was submitted and validated in September 2016 but was subject to a Judicial Review from neighbours in Tomlins Grove, which delayed the planning decision. The Judicial Review related to the process by which the daylight and sunlight impact was assessed.
- 3.3 In maximising the development potential of the site, there has been some impact on neighbouring properties in terms of their rights to light, for which compensation is payable. The process of negotiating compensation is almost complete. Any changes to the design at this stage would be likely to affect these negotiations.
- 3.4 In November 2019, planning consent was granted for the demolition of the existing building and construction of an 8 storey and 6 storey residential block to provide 62 new homes for affordable rent, comprising 16 x 1bed (26%), 14 x 2bed (23%), 20 x 3bed (32%) and 12 x 4 bed homes (19%), and 5 x B1 business units on the ground floor. The dwelling mix on this scheme provides more 4bed flats and less 2bed flats than is set out in the council's planning policy.
- 3.5 A condition of the planning consent is that the permission is implemented within three years of the date of the decision notice. This means that start on site must take place before 15th December 2022 or the planning consent will expire.
- 3.6 In June 2021, Cabinet approved a budget of £24.351m for this scheme, of which £22.646m was allocated for the new homes and £1.705m for the business units. The existing funding sources identified for this scheme are RTB receipts ((£7.305m)and HRA borrowing (£17.046m).
- 3.7 In parallel with the budget setting process, this scheme has been reviewed and approved through the council's capital governance process.
- 3.8 In August 2021, the process of procuring a contractor through the council's newly established Dynamic Purchasing System (P5644 DPS for Commissioning of Contractors for Housing, Education Regeneration and General Building Works, Lot A – iv) for contractors commenced.

- 3.9 Tender returns were received from four bidders on 22nd November 2021. Following evaluation of all submissions, on a 65:35 quality:price basis, and the Procurement Review Panel Tollgate 2 Contract Award Process, the contract was awarded to Jerram Falkus at the end of March 2022, with a contract sum within the approved budget of £22,741,054.
- 3.10 Following the contract award, Jerram Falkus advised the Council that due to rising inflation, increased energy and material costs, and labour availability affecting the building industry since tenders were submitted, they would be seeking additional inflation costs. Jerram Falkus also stated that they would not be able to accept the Council's revised terms and conditions.
- 3.11 Having sought legal advice, and in accordance with the council's procurement procedures, it was agreed at the Procurement Review Panel that Jerram Falkus would be asked to withdraw their acceptance of the contract award and each bidder would be given the opportunity to submit a revised bid with an inflation uplift.
- 3.12 The update was issued to the four bidders on 14th June 2022, with a return date of 27th June 2022. Two bidders informed the council that they would not be submitting a revised bid. The only bid received by the deadline was from Jerram Falkus. However, the Falkus bid was substantially qualified and was not capable of acceptance. Therefore, and in accordance with the procurement law it was disqualified from the process
- 3.13 A late submission was subsequently received through the portal on 4th July 2022 from Formation Group. However, this was disqualified because it was received after the published deadline.
- 3.14 Legal advice suggested that in the absence of suitable tenders following 2 attempts at a competitive process Regulation 32 of the Public Contracts Regulations 2015 allows the Council to move to the negotiated procedure without an advert and consider a single submission. Therefore, the Council approached Jerram Falkus to negotiate the terms of the contract as at the point the decision was made (before receipt of the late bid) Jerram Falkus appeared to be the only prospect of fulfilling the build requirements within the timescales afforded by the planning consent.
- 3.15 Following detailed examination of the Contract Sum Analysis, tender queries and responses, Jerram Falkus's tender price was confirmed and in excess of the approved budget of £24.351m this scheme.
- 3.16 The tender report from the Employer's Agent, Potter Raper, considered the submission, when compared with recently submitted tenders of similar size, delivers best value for the council.
- 3.17 The revised total scheme costs for this project, based on the tender price of £24.496m, has increased to £28.800m, requiring an additional £4.449m to be added to the current approved budget.

- 3.18 In July 2022, Cabinet approved a budget of £337.7m for HRA new council homes programme. Whilst this programme-wide budget has been allocated to specific schemes, a review is currently underway which will see some schemes swapped out of the programme. It is proposed that the additional budget requirement for this scheme is taken from the £7.600m allocated to Gill Street, which is funded by RTB receipts (£2.052m) and HRA borrowing (£5.548m).
- 3.19 To date, there has been spend of £848k on Gill Street for the feasibility and design stages for RIBA Stages 1-3. This spend will be expensed to HRA revenue.
- 3.20 Based on a start on site in October 2022, the development is due to complete at the end of November 2024.

4 EQUALITIES IMPLICATIONS

- 4.1 An Equalities Impact Assessment was carried out for the HRA new homes programme to identify and mitigate the impact on groups with protected characteristics and others. If the development of 62 new homes for social rent do not go ahead on this site, this will impact on overcrowded households and those living in temporary accommodation, many of which fall into one of the protected groups.

5 OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
 - Consultations,
 - Environmental (including air quality),
 - Risk Management,
 - Crime Reduction,
 - Safeguarding.
 - Data Protection / Privacy Impact Assessment.

6 COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 This report recommends the Mayor to approve an increase in the budget for the 3-5 Arnold Road development by £4.449m, from £24.351m to £28.800m to enable the build contract to be awarded. This increase in budget is proposed to be funded by the removal of the Gill Street scheme and associated budgets of £7.600m included within the existing HRA new council homes programme. As only £4.449m of the Gill street budget (£1.335m of

RTB receipts and £3.114m of HRA borrowing) will be required to fund the required increase to the 3-5 Arnold Road development, the remaining £3.151m budget (£0.945m of RTB receipts and £2.206m of HRA borrowing) will be available for re-allocation pending the MTFS capital refresh planned for the Autumn.

- 6.2 Overall, this will result in no change to the total capital HRA new council homes programme budget or the total funding of the programme.
- 6.3 To date, there has been spend to date of £848k relating to Gill Street scheme for the feasibility and design stages for RIBA Stages 1-3. This spend will have to be expensed to HRA revenue as the Gill Street Scheme is being removed with no actual asset(s) materialising.

7 COMMENTS OF LEGAL SERVICES

- 7.1 The Council had 2 attempts at subjecting this scheme to open competition without success. Therefore, Regulation 32 of the Public Contracts Regulations 2015 allows the Council to negotiate with a single provider to arrive at a successful contract. The only proviso is that the overall specification of requirements remains substantially the same as was subjected to competition and this was the case here.
- 7.2 The Council is also required to demonstrate Best Value. The Council sought expert cost advice from Potter Raper Partners who confirmed that the final contract cost was one which was in line with similar schemes tendered recently. Also, an analysis of the cost application within the tender price was also undertaken showing that the bid is sustainable and within the bounds of that which one might expect following competition.
- 7.3 This report includes a restricted appendix. In the round the details in the appendix relate to the specifics of the Jerram Falkus agreed contract price. Jerram Falkus' commercial interests may be damaged if this was released into the public domain at this stage which could lead to legal action against the Council. The information is exempt information for the purposes of the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and therefore the public may be excluded as on balance the public interest in knowing the information is outweighed by the public interest in maintaining the exemption.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE.

Appendices

- Exempt Annexe (Exempt Due to Paragraph 3 (Information relating to the financial or business affairs of a particular person (including the authority)) of Part 1 Schedule 12A of the Local Government Act 1972

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE

Officer contact details for documents:

N/A

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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Mayor's Executive Decision Making



Wednesday, 14 September 2022

1. **REDEVELOPMENT OF BANCROFT TMC AND WICKFORD STREET GARAGES: APPROVAL TO INCREASE PROJECT BUDGET TO ENABLE BUILD CONTRACT TO BE AWARDED**

3 - 18

Contact for further enquiries:

Joel West, Democratic Services Team Leader (Committee),

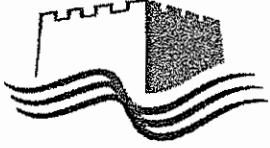
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Individual Mayoral Decision Proforma Decision Log No: <u>303</u>	 TOWER HAMLETS
Report of: Ann Sutcliffe, Corporate Director, Place	Classification: Exempt <i>Appendix</i>
Redevelopment of Bancroft TMC and Wickford Street garages: Approval to increase project budget to enable build contract to be awarded	

Is this a Key Decision?	No
Decision Notice Publication Date:	(Report author to state date of decision notice – either individual notice or within the Forward Plan)
General Exception or Urgency Notice published?	Not required
Restrictions:	Contract sum should not be in the public domain until it is published on the Contracts Finder
Reason for seeking an Individual Mayoral Decision:	The submitted tender prices are held until 12 th September 2022, after which they are expected to be increased given the current market conditions. Approval for a budget increase to enable the contractor appointment in the next two weeks means that this decision cannot wait until the next Cabinet meeting at the end of October 2022.

EXECUTIVE SUMMARY

The Bancroft TMC and Wickford Street garages site is part of the HRA new council homes programme. Planning consent for the development of a Class D1/B1(a) community/office space and 33 new homes was granted in March 2021. The process of procuring a build contractor commenced in January 2022 through the council's Dynamic Purchasing System. Tenders were returned in April 2022.

As a result of changing market conditions, including rising inflation, increasing energy costs and a shortage of material and labour, the tender price for this contract was higher than estimated and is shown in restricted Appendix 1. The Employer's Agent has confirmed that in the current climate, this sum delivers value for money. The total scheme costs now exceed the approved budget of £14.100m requiring an additional budget of £3.000m to be allocated and approved to enable the contract to be awarded.

The additional budget requirement has been identified within the current HRA Business Plan budget envelope, by the removal on one of the approved schemes in the programme. A budget of £7.600m is available from the removal of the Gill Street scheme, of which £4.449m has been allocated to

the Arnold Road scheme, leaving £3.000m available to be allocated to the Bancroft and Wickford Street scheme.

Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; implications for One Tower Hamlets; Risk Assessment; Background Documents; **and other relevant matters are set out in the attached report.**

DECISION

The Mayor is recommended to:

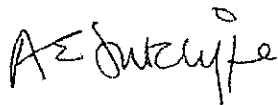
1. Approve an increase in the budget for the development of 33 new homes for social rent and a community office space on the Bancroft and Wickford Street site by £3.000m to £17.100m to enable the build contract to be awarded.
2. Approve the use of £3.000m from the remaining Gill Street scheme budget, within the HRA new council homes programme budget of £323.291m as approved by Full Council in March 2022.
3. Approval of the contract award to Formation Design & Build Limited for the development of the site at Bancroft and Wickford Street, for the tendered contract sum shown at Appendix 1.

APPROVALS

1. **(If applicable) Corporate Director proposing the decision or his/her deputy**

I approve the attached report and proposed decision above for submission to the Mayor. I confirm that the Mayor and/or Lead Member have agreed to this decision being taken using this process.

Signed



... Date 9 September 2022

2. Chief Finance Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 9 September 2022

3. Monitoring Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

(For Key Decision only – delete as applicable)

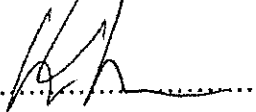
I confirm that this decision:-

- (a) has been published in advance on the Council's Forward Plan OR
- (b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.


Signed ...  Date 9 September 2022

4. Mayor

I agree the decision proposed in the recommendations above for the reasons set out in paragraph 16 in the attached report.

Signed  Date 12/9/22

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Individual Mayoral Decision 1 st September 2022	 TOWER HAMLETS
Report of: Ann Sutcliffe, Corporate Director, Place	Classification: Part Exempt (Appendix)
Redevelopment of Bancroft TMC and Wickford Street garages: Approval to increase project budget to enable build contract to be awarded	

Lead Member	Councillor Kabir Ahmed, Cabinet Member for Regeneration, Inclusive Development and Housing
Originating Officer(s)	Jane Abraham – Interim Capital Programme Manager (Housing)
Wards affected	Bethnal Green East
Key Decision?	No
Reason for Key Decision	This report has been reviewed as not meeting the Key Decision criteria.
Forward Plan Notice Published	[Insert date notice was published – see forthcoming decisions webpage]
Exempt information	
Strategic Plan Priority / Outcome	Strategic Plan 2022-2026 Priority 2: Providing Homes for the Future

Executive Summary

The Bancroft TMC and Wickford Street garages site is part of the HRA new council homes programme. Planning consent for the development of a Class D1/B1(a) community/office space and 33 new homes was granted in March 2021. The process of procuring a build contractor commenced in January 2022 through the council’s Dynamic Purchasing System. Tenders were returned in April 2022.

As a result of changing market conditions, including rising inflation, increasing energy costs and a shortage of material and labour, the tender price for this contract was higher than estimated and is shown in restricted Appendix 1. The Employer’s Agent has confirmed that in the current climate, this sum delivers value for money. The total scheme costs now exceed the approved budget of £14.100m requiring an additional budget of £3.000m to be allocated and approved to enable the contract to be awarded.

The additional budget requirement has been identified within the current HRA Business Plan budget envelope, by the removal on one of the approved schemes in the programme. A budget of £7.600m is available from the removal of the Gill Street scheme, of which £4.449m has been allocated to the Arnold Road scheme, leaving £3.000m available to be allocated to the Bancroft and Wickford Street scheme.

Recommendations:

The Mayor is recommended to:

1. Approve an increase in the budget for the development of 33 new homes for social rent and a community office space on the Bancroft and Wickford Street site by £3.000m to £17.100m to enable the build contract to be awarded.
2. Approve the use of £3.000m from the remaining Gill Street scheme budget, within the HRA new council homes programme budget of £323.291m as approved by Full Council in March 2022.
3. Note the funding sources for this scheme.
4. Approval of the contract award to Formation Design & Build Limited for the development of the site at Bancroft and Wickford Street, for the tendered contract sum shown at Appendix 1.
5. Note the Equalities Impact Assessment as set out in Paragraph 5

1 REASONS FOR THE DECISIONS

- 1.1 An increase in the project budget for the scheme at Bancroft and Wickford Street is required to enable the build contractor to be appointed at the submitted contract sum. Prices submitted by the contractors were held until 29th August 2022 and contractors have agreed to hold their prices for a further 2 weeks, after which they are likely to increase due to the increase in inflation.
- 1.2 A decision is required urgently to enable the build contractor to be appointed at the submitted contract price, meaning that it cannot wait until September Cabinet for a decision.
- 1.3 Funding for the additional budget requirement of £3.000m has been identified through the removal of an approved scheme in the HRA new council homes programme which has a remaining budget allocation of £3.151m.
- 1.4 There have been significant cost increases during the past year including a

rise in inflation, a surge in energy prices, an increase in the cost of materials following the pandemic and Brexit and an ongoing shortage of labour, which have resulted in higher tender prices than originally estimated.

2 ALTERNATIVE OPTIONS

- 2.1 A refresh of the approved HRA new council homes programme is due to be presented to Cabinet in October 2022, where new schemes will be added and budget allocations adjusted within the overall budget envelope that is affordable within the HRA Business Plan. However, with the planning consent for this scheme due to expire in four months, approval for an increase in the budget is required sooner than October 2022 to ensure the development of 33 new homes for social rent on this site can proceed.

3 DETAILS OF THE REPORT

- 3.1 The Bancroft TMC and Wickford Street garages site is part of the HRA new council homes programme. The site is currently occupied by the Bancroft TMC (Tenant Management Committee) office and meeting rooms and garages on Wickford Street. A site plan is shown in Appendix 2. For the duration of the development, Bancroft TMC are moving to temporary accommodation on the estate.
- 3.2 The planning application for the development of this council-owned site was submitted and validated in December 2019 (PA/19/02611/A1). The scheme was considered at Development Committee in May 2020 at which more detail was requested on fire safety and the emergency access strategy. The architect provided the additional information as requested to address this matter.
- 3.3 In March 2021, planning consent was granted for the development of a part-two, part-three and part-six storey building comprising Class D1/B1(a) community/office use at ground/first floor with 15 new homes above (Bancroft TMC site) and a part 3 and part 5 storey building comprising 18 new homes (Wickford Street garage site).
- 3.4 The dwelling mix for the approved scheme comprises 12 x 1bed (37%), 7 x 2bed (21%), 8 x 3bed (24%) and 6 x 4 bed homes (18%). In order to more closely match the Mayor's priority for the new build programme to deliver more family-sized homes, the scheme mix has been reviewed. Subject to design revisions at RIBA Stage 4 and an amendment to the planning consent, it may be possible to increase the number of 3bed and 4bed flats by 5. This will reduce the overall number of homes on the site, but not reduce the contract sum.

	Policy %	Current scheme		Revised scheme	
		Number	%	Number	%
1 bed	25%	12	37%	5	18%
2 bed	30%	7	21%	4	14%
3 bed	30%	8	24%	9	32%
4+ bed	15%	6	18%	10	36%
Total		33		28	

- 3.5 To avoid delaying the delivery of the scheme, the preferred route is to award an initial Pre Construction Services Agreement (PCSA), ahead of the main contract, to enable changes to dwelling types to take place during the detailed design process, protecting the contract sum.
- 3.5 In June 2021, Cabinet approved a budget of £14.100m for this scheme, of which £12.408m was allocated for the new homes and £1.692m for office and community space. There has been expenditure of £446,993 to date and future financial commitments which will cause the budget to be exceeded. The funding sources identified for this scheme were RTB receipts (£3.722m) and HRA borrowing (£10.378).
- 3.6 In parallel with the budget setting process, this scheme has been reviewed and approved through the council's capital governance process.
- 3.7 In January 2022, the process of procuring a contractor through the council's newly established Dynamic Purchasing System (P5644 DPS for Commissioning of Contractors for Housing, Education Regeneration and General Building Works, Lot A – iv) for contractors commenced.
- 3.8 Tender returns were received from four bidders on 11th April 2022. The tenders were assessed on a Most Economically Advantageous Tender basis with a quality:price ration of 60%:40%.
- 3.9 Due to a delay in identifying temporary accommodation for Bancroft TMC, which had been scheduled to be available by the time the tender process was complete, the Capital Delivery Team requested that revised prices be sought from the tenderers for a phased development, starting with the garage site. Revised submissions were received on 31st May 2022, with prices held for 90 days. The contractors have agreed to hold their prices a further 14 days, until 12th September 2022.

Bidder	Submitted Tender Amount (£)	Revised Tender Sum (£)
Formation Design & Build Ltd	£12,479,415.19	£13,549,174.56
Glenman Corporation	£14,177,076.13	£14,595,299.74
Kind & Co. (Builders) Ltd.	£16,568,082.50	£16,568,082.50
Jerram Falkus Construction Limited	£17,079,100.00	£17,118,983.00

- 3.10 The Employer's Agent, PRP, examined the Contract Sum Analysis, tender queries and responses, and confirmed that the revised tender price from

Formation Design and Build Ltd, compared with recently submitted tenders of similar size, delivers best value for the council.

- 3.11 The Social Value benefit from this contract is £300,000 of contracts let to business located within the geographical boundaries of Tower Hamlets, two new contract related roles that are filled by Tower Hamlets residents and one local Immediate Apprenticeship.
- 3.12 The Procurement Review Panel met on 2nd August 2022 to consider the Tollgate 2 Contract Award report. This was approved, subject to an increase in the project budget and inclusion of panel members comments.
- 3.13 The revised total scheme costs for this project, based on the tender price of £13.550m, has increased to £17.100m, requiring an additional £3.000m to be added to the current approved budget.
- 3.14 In March 2022, Full Council approved a budget of £323.219m for HRA new council homes programme. Whilst this programme-wide budget has been allocated to specific schemes, a review is currently underway which will see some schemes swapped out of the programme. It is proposed that the additional budget requirement for this scheme is taken from the £7.600m allocated to Gill Street, which is funded by RTB receipts (£2.052m) and HRA borrowing (£5.548m).
- 3.15 There is committed spend of £848,000 on Gill Street for the feasibility and design stages for RIBA Stages 1-3 to date. This will be expensed to HRA revenue.
- 3.16 Based on a start on site in October 2022, the development is due to complete at the end of 2025.

4 DESIGN CONSIDERATIONS

- 4.1 As soon as the contractor is appointed, they will start the detailed design process as part of the pre-construction stage. This generally takes three months. Amending the internal layout of the scheme, within the approved footprint, will require an amendment to the planning application, which would be likely to take 8 weeks. Depending on the extent of the amendments, the decision may fall within delegated authority and not need to go to Development Committee for a decision.
- 4.2 The approved scheme for the Bancroft TMC site comprises a part-two, part-three and part-six storey building comprising community/office use at ground/first floor and 15 new homes (10 x 1bed and 5 x 2bed) on the upper floors together with associated private amenity areas, cycle parking and refuse/recycling stores.
- 4.3 With a mix of 1 and 2bed accommodation, this block has a core with a single lift. The provision of a single lift is a factor to consider in amending the

dwelling mix to include family-sized homes. Whilst the internal layout can be reconfigured to provide larger homes by combining two smaller flats on each floor to create a 4bed home, the landing areas have not been designed with additional space for buggies etc.

- 4.4 As part of the process of revising the design, the provision of amenity space needs to be taken into account. If two smaller homes are combined it may be difficult to provide a single balcony of 10m², meaning that in some cases, the family-sized home will have two smaller balconies. Provision of outdoor amenity space is also part of the consideration. The landscape plan, attached at Appendix 3, shows that the outdoor amenity space adjacent to the Wickford Street part of the site is not on the doorstep, which is the preference for under-5s play.
- 4.5 The Wickford Street garage site comprises a part 3 and part 5 storey building comprising 18 new homes (2 x 1bed, 2 x 2bed, 8 x 3bed and 6 x 4bed) together with associated private amenity areas, cycle/blue badge car parking (in the form of 4 x accessible parking bays) and refuse/recycling stores. There is an opportunity to convert 1 x 1bed and 1 x 2bed on the ground floor to a 4bed flat.
- 4.6 These considerations will need to be taken into account in deciding on the number of larger homes to include in a revised scheme.

5 EQUALITIES IMPLICATIONS

- 5.1 An Equalities Impact Assessment (EqIA) was carried out for the HRA new homes programme to identify and mitigate the impact on groups with protected characteristics and others. If the development of 33 new homes for social rent does not go ahead on this site, this will impact on overcrowded households and those living in temporary accommodation, many of which fall into one of the protected groups.

6 OTHER STATUTORY IMPLICATIONS

- 6.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
 - Consultations,
 - Environmental (including air quality),
 - Risk Management,
 - Crime Reduction,
 - Safeguarding.
 - Data Protection / Privacy Impact Assessment.

7 COMMENTS OF THE CHIEF FINANCE OFFICER

- 7.1 This report seeks approval to increase the budget for the development of 33 new homes for social rent and a community office space on the Bancroft and Wickford Street site by £3.000m to £17.100m to enable the build contract to be awarded.
- 7.2 This report also seeks approval to swap funds from the approved budget for the discontinued Gill Street residential development with community facilities project to Bancroft and Wickford Street site project.
- 7.3 The discontinued Gill Street residential development with community facilities project had already incurred to date £0.848m in feasibility and design stages for RIBA Stages 1-3. As this is an abortive cost, this has to be transferred to and absorbed within HRA revenue.
- 7.4 The transfer of this abortive cost to HRA revenue frees up the approved budget of £7.6m initially approved for Gill Street residential development with community facilities project and of this, £3m will be available for the increase in budget for Bancroft and Wickford Street site project.
- 7.5 The £3m budget increase for this Bancroft and Wickford Street site will be financed by a combination of RTB receipts and HRA borrowing as approved originally for the Gill Street residential development with community facilities project.

8 COMMENTS OF LEGAL SERVICES

- 8.1 The Council has the legal power to make the decisions referred to in this report.
- 8.2 The Council is required to demonstrate Best Value in terms of economy efficiency and effectiveness in the delivery of its legal functions. The Council subjected this purchase to competition with award being based upon predetermined pre published evaluation criteria. Therefore, the award represents Best Value (being the price at the relevant level quality that the market would bear) albeit due to market conditions the proposed award value is greater than that which the Council had intended to pay.
- 8.3 This report includes a restricted Appendix 1. In the round the details in the appendix relate to the specifics of the Formation tendered contract price. Formation's commercial interests may be damaged if this was released into the public domain at this stage which could lead to legal action against the Council. The information is exempt information for the purposes of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and therefore the public may be excluded as on balance the public interest in knowing the information is outweighed by the public interest in maintaining the exemption

Linked Reports, Appendices and Background Documents

Linked Report

- NONE.

Appendices

- Appendix 1: contract price information (Exempt Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972)
- Appendix 2: Site plan
- Appendix 3: Landscape plan

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE

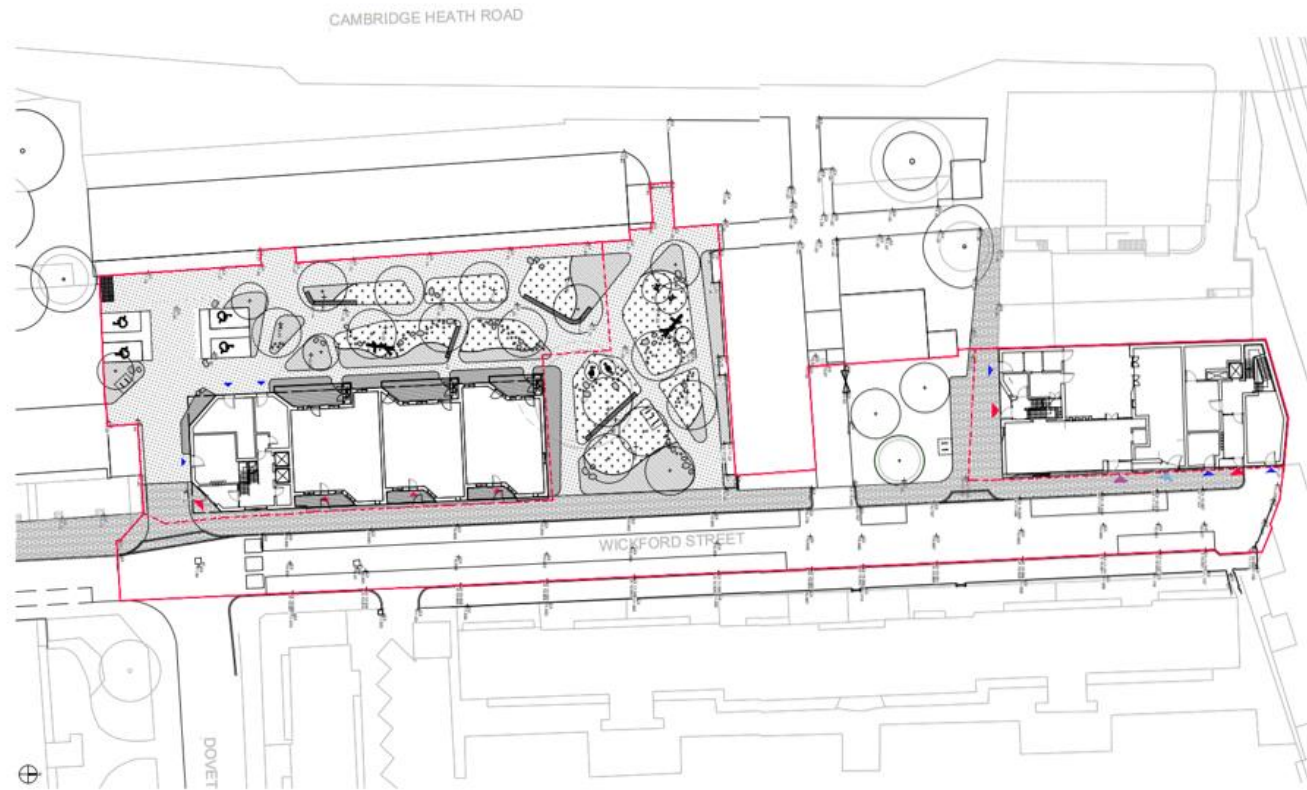
Officer contact details for documents:

Or state N/A

Site plan



Landscape plan



NOTES:

1. This drawing is to be read in conjunction with all relevant contract documentation from the design team, with any conflicting information to be brought to the attention of Farrer Hussey Associates in writing before commencing on site.
 2. The contractor is to check and verify all levels and dimensions before construction. Any discrepancies are to be brought to the attention of Farrer Hussey Associates in writing before commencing on site.
 3. All dimensions in mm, unless otherwise stated.
 4. Do not scale from this drawing.
 5. All sub base and concrete design and specification to engineer's details. All diagrams provided here are purely indicative.
 6. Waterproofing of any element to be specified by others.
 7. All proprietary products shall be installed in accordance with manufacturers written instructions.
 8. Plant numbers are an indication only and plants should be ordered to suit site areas in accordance with scheduled plant densities.
 9. Any proposed plant substitution shall be agreed with the landscape architect prior to ordering.
- For General Arrangement, refer to ...132's series;
 For level landscape, refer to ...200's series;
 For levels and drainage refer to ...300's series;
 For soft landscape, refer to ...400's series;
 For lighting, refer to ...500's series

Key:

- Site boundary
 - Application boundary
- Hard Landscape:
- Rein bound gravel
 - High quality natural stone paving to private gardens
 - Concrete slab paving to match existing paving
- Soft Landscape:
- Existing trees
 - Proposed trees
 - Trees to be removed
 - Shrub planting - defensible space to private gardens
 - Grass area
 - Low level planting - groundcover
- Landscape Elements:
- Bin screen
 - Concrete retaining walls
 - Boulders
 - Timber stepping bollards
 - Fallen play trees
 - Play equipment - timber sheep
 - Play equipment - timber snail
 - Visitor cycle parking - cycle hoops
 - Existing levels
 - Proposed levels

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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