



<b>Decision Makers:</b>	<b>Cabinet Member for Communities and Regeneration and Cabinet Member for Finance and Smart City</b>
<b>Date:</b>	15 <sup>th</sup> November 2021
<b>Classification:</b>	General Release but that Appendix A be declared as exempt from publication as it involves the disclosure of information as prescribed by paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972, (as amended), in that it contains information relating to the financial or business affairs of any particular person (including the authority holding the information).
<b>Title:</b>	Ebury Bridge Phase 1 Professional Team Appointments
<b>Wards Affected:</b>	Churchill Ward
<b>City for All/Policy Context:</b>	The proposed Ebury Bridge estate renewal will meet the Council's City for All objectives. Renewal will promote <b>Vibrant Communities</b> by providing more homes of all types and tenures to create a vibrant community which is full of opportunity. Renewal of the Ebury Bridge Estate is a significant chance to strengthen a <b>Greener and Cleaner City</b> through creating high quality, energy efficient homes and a healthier, greener environment that connects better to surrounding communities and the wider area.
<b>Key Decision:</b>	Yes
<b>Report of:</b>	Debbie Jackson, Executive Director, Growth Planning and Housing

## **Financial Summary:**

The Full Business Case (FBC) for Ebury Bridge Phase 1 was recently approved by the Cabinet Member (CM) on the 16th August 2021. This report is requesting approval to enter into contract and incur expenditure for Project Manager (PM, Employers Agent (EA) and Quantity Surveyor (QS) services. The total contract value is £3.755m in line with the sum budgeted within the FBC. The paper also seeks approval for delegated authority to the Executive Director of Growth, Planning and Housing (GPH) to authorise the expenditure of the project contingency as per the budget approved within the July 2021 FBC.

## **1. Executive Summary**

- 1.1** The regeneration of the Ebury Bridge Estate will provide more affordable housing and bring about the long-term physical, economic and social sustainability of the neighbourhood.
- 1.2** The Council has worked with Ebury Bridge Estate residents to create a high-quality scheme that offers an attractive mix of homes including affordable homes for rent and sale, meeting a range of housing needs. The scheme also offers commercial premises, public realm, and community facilities.
- 1.3** To successfully deliver of the phase 1 demolition and construction contracts, the Council must appoint a Project Management (PM)/ Employers Agent (EA) and Quantity Surveyor (QS).
- 1.4** This paper will be seeking authority from Cabinet Members to enter into and execute contract with Gardiner and Theobald LLP for those services for phase 1.
- 1.5** The paper will also seek approval to delegate authority to the Executive Director of GPH to authorise the expenditure of the 'project contingency' up to the budget approved within the July 2021 FBC.

## **2. Recommendations**

**2.1** That the Cabinet Member for Communities and Regeneration approves the below:

- Contract award to Gardiner and Theobald (G&T) for the provision of Project Management, Employer's Agent and Quantity Surveying Services for the Ebury Bridge Phase 1 Renewal Scheme for a value of £3,755,400. The contract is to be awarded with a duration of 56 months from February 2020 to May 2024).
- Approval to utilise £878,920 from the project contingency for this appointment, leaving £6.7m (88.4%) remaining. The Full Business Case had assumed a total budget of £2,876,480 for these services, however, subsequent updates to the programme have resulted in the need to utilise contingency.

- To release the budget for Phase 1 developers' contingency of £7.58m and delegate the authority to the Executive Director of Growth, Planning and Housing to approve any additional expenditure against the contingency on Phase 1.

### **3. Reasons for Decisions**

**3.1** The Ebury Bridge regeneration will deliver 781 high quality and sustainable new homes. 50% of those homes will be affordable, therefore this renewal programme greatly assists the Council in delivering the target of delivering more affordable homes across the borough.

**3.2** Phase 1 is being self-delivered by the Council; therefore a competent professional team is required to advise and act on behalf of the client team, ensuring the demolition and construction contracts are delivered in accordance with the agreed price, quality, and programme parameters.

### **4. Procurement**

#### **4.1 Gardiner and Theobald – Phase 1 PM/EA/QS**

**4.1.1** G&T were originally appointed as a sub consultant to Ove Arup as part of the Ove Arup multi-disciplinary appointment providing Project Management, Employers Agent and Quantity Surveying services associated with the development of the hybrid Planning Application. The multi-disciplinary appointment was concluded in 2020, therefore, the same services need to be procured to deliver the remainder of phase 1.

**4.1.2** The NHS (National Health Service) Shared Business Services (SBS) Consultancy 2 Framework Agreement (ref: SBS/17/NH/PZR/9256) was selected for this appointment.

**4.1.3** This enabled a direct award of G&T from 'Lot 2 – Project Management' of the NHS SBS. This procurement strategy and the contract award in respect of a total contract value of £2,826,489 were endorsed by Commercial Gateway Review Board (CGRB) on 28<sup>th</sup> July 2020.

**4.1.4** G&T reviewed the proposed contract draft in November 2020 and responded in late December with proposed changes. WCC agreed to most of the proposed amendments. However, the following revisions became sticking points:

- Modern slavery legislation – this is a standard clause which the Council includes which enables the Council to audit the supplier to ensure the legislation is being complied with. G&T confirmed they could not accept as they already have external auditors.
- Definition of Beneficiaries in the ARUP appointment – WCC requested no limit to the number of beneficiaries for the warranty (funders, developers, occupiers etc.) as the number is not yet defined. G&T were requesting to limit the number of beneficiaries to three, which posed an unreasonable risk to the Council and could not be agreed

- Professional Indemnity (PI) – G&T felt that the £10m PI request was disproportionate to the construction and demolition value. WCC confirmed that it was not disproportionate and expect G&T to have the required level of PI.

- 4.1.5** Whilst the PI and Beneficiaries clauses were agreed swiftly, the Modern Slavery Act clause was negotiated over several months. The Council confirmed the contract would need to be terminated if the clause could not be agreed, which provoked an agreement from G&T in June 2021.
- 4.1.6** During this negotiation period, G&T have provided the services to the Council. A breakdown of fees paid to date can be found in Appendix A.
- 4.1.7** Since CGRB approval in July 2020, the Ebury Phase 1 programme has been extended due to delays to planning and increased construction duration. This has led to an increase in contract cost which is also detailed in Appendix A.
- 4.1.8** The updated appointment fee and contract award was approved by CGRB in Nov 2021.
- 4.1.9** This paper is seeking authority to award and enter into contract with G&T for the provision of Project Manager, Employers Agent and Quantity Surveyor services.

#### **4.3 Delegated authority for expenditure of contingency**

**4.3.1** The expenditure of contingency will often be required for unforeseen issues or changes directed by The Council. The Council have budgeted a contingency for phase 1 within the Full Business Case approved in July 2021. To maintain continuity of works on site, it is often necessary for swift authorisation to expend contingency. Therefore, this paper seeks to delegate the authority to approve the expenditure of contingency to the Executive Director of Growth, Planning and Housing.

### **5. Background and Policy Context**

- 5.1** In July 2018, following a detailed options appraisal process carried out in partnership with estate residents, the City Council Cabinet approved, the full redevelopment of the Ebury Bridge estate and the creation of around 750 new homes.
- 5.2** 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 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-lead 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.
- 5.3** 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. 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 1,000m<sup>2</sup> more play space and an increase of 3,018m<sup>2</sup> retail and amenity space.

**5.4** 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.

**5.5** The proposals also support the objectives in the Westminster's City for All 2018/19. The developments proposed help to contribute to Westminster'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. Financial Implications**

The Ebury Phase 1 FBC and CMR was recently approved by CM on 16 August 2021. The contract spends for EA, QS & PM of £3,755,440 is in line with the sum assumed within the FBC.

The Full Business Case had assumed a total budget of £2,876,480 for these services, however, subsequent updates to the programme have resulted in the need to utilise contingency allocation of £878,920 leaving £6.7m (88.4%) remaining of the total project contingency within the FBC.

This report also requests to release the budget for Phase 1 developers' contingency of £7.58m and delegate the authority to the Executive Director of Growth, Planning and Housing to approve any additional expenditure against the contingency on Phase 1.

The collective contract sum is for £3,755,440. This sum covers the contracts for:

- PM/EA – Phase 1 Main Contractor Works (£1,821,623.00)
- QS – Phase 1 Main Contractor and Demo (£1,568,500.00)
- PM/EA – Demo (£365,317.00)

Each call-off contract is for the period up to 52 months (approx. end date May 25, 2024), with options to extend respective contract as required until end of defects rectification period (DRP) post practical completion. Additional costs will be based on framework fees which are invoiced monthly. (PC estimated May 24 with a 12-month DRP).

It should be noted:

- The contract was initially endorsed by CCRB on 28th July 2020 for the value of £2,826,489.00 but contract was not awarded due to the reasons explained in section 1.1.

- A sum of £1,000,169.00 has already been spent or committed with this contractor while the contract was being finalised (Please refer to section 4 for further details)
- The programme has been extended due to unforeseen site conditions (refer section 1.1 for details) and has resulted in an additional cost of £928,951
- The revised contract value including the spend/committed and additional cost is £3,755,440 with a balance left to spend value of £2,755,271.

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## **7. Legal Implications**

### **7.1. Contract Award – Gardiner & Theobald**

**7.2.** The recommendation in this report is seeking approval for the award of three call-off contracts to Gardiner & Theobald LLP via the Lot 2 – Project Management on the NHS Shared Business Services Consultancy 2 Framework – Lot 2 (SBS/17/NH/PZR/9256) for the provision of Project Management Services (the Framework). The contract awards are for the following appointments:

- (i) Project Manager and Employers Agent (Buildings 7&8 main contracts works only) – contract fee £1,821,623
- (ii) Project Manager and Employers Agent (Buildings 7&8 demolition only) – contract fee £365,317
- (iii) Quantity Surveyor – contract fee £1,172,500.

**7.3.** The Framework has been set up in compliance with regulation 33 of the Public Contracts Regulations 2015 (the PCR) and the Council is permitted access to use it as a public sector organisation. The Framework permits direct awards can be made by authorities using it.

**7.4.** The Council should be satisfied that the terms of the framework agreement and the proposed call-off contract terms are suitable for the Council. It is understood that external solicitor advice was obtained to achieve agreed terms and conditions.

**7.5.** The total value of the contracts' to be awarded to Gardiner & Theobald LLP is £3,755,400.

**7.6.** This consultancy appointment is critical to the delivery of the Ebury Bridge Estate Programme.

**7.7.** Approval of the contract award must be obtained from the appropriate Cabinet Member following the endorsement to approve from the appropriate Executive Leadership Team member and the Commercial Gateway Review Board.

**7.8.** The agreed contract must be signed by at least two authorised officers of the Council or made under the common seal attested by at least one officer in accordance with the Council's Standing Order 36.1(5).

## **8. Equalities**

**8.1**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.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex sexual orientation

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

Rachael Hookway – [rhookway@westminster.gov.uk](mailto:rhookway@westminster.gov.uk)

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 .....

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*(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 Bridge Phase 1 Project Management (PM), Employer’s Agent (EA) and Quantity Service (QS) for main works and Demolition 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 Executive Director of Finance and Resources, and, if there are human resource implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further information 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 and 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 .....

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Signed .....

Councillor Paul Swaddle, Cabinet Member for Finance and Smart City

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