

# A5

## Executive Decision Report

<b>Decision maker and date of Leadership Team meeting or (in the case of individual Lead Member or Executive Director decisions) the earliest date the decision will be taken</b>	Leadership Team 12 March 2020 Forward Plan reference: 05576/20/K/AB Portfolio: Cllr Tim Taylor-Smith, Lead Member for Grenfell, Housing and Property	 THE ROYAL BOROUGH OF <b>KENSINGTON AND CHELSEA</b>
<b>Report title</b>	New Homes Delivery Programme – Procurement Strategy	
<b>Reporting officers</b>	Robyn Fairman, Executive Director Grenfell Anna Benbow, Director Social Investment and Property	
<b>Key decision</b>	Yes	
<b>Access to information classification</b>	Public	

## **1. EXECUTIVE SUMMARY**

- 1.1 The New Homes Delivery Programme will deliver the Council's proposal to build 600 new homes on Council-owned sites, of which at least 300 will be for social rent.
- 1.2 This report sets out the approach to procurement for the programme, particularly in relation to Stage One sites, and intentions for later stages. This will cover the procurement of contractors for both pre-construction and construction.
- 1.3 The programme is a key strategy of the Council and represents a significant social investment in new homes in the borough and supports the Council's ambitions to provide a strong and inclusive economy which helps people achieve their ambitions, tackling barriers that prevent residents from achieving their full potential while also maximising social value and social investment.
- 1.4 The programme has received Building Homes for Londoners (BHfL) funding awarded by the Greater London Authority (GLA) to support delivery of the social rent homes in the sum of £33.6m.
- 1.5 This report seeks approval for the Council to commence the procurement of contractors to deliver Stage One of the New Homes Programme as detailed.
- 1.6 The report notes that the Deputy Leader Grenfell, Housing and Property is authorised to place appropriate pre-commencement and enabling works contracts prior to the award of main construction contracts. The construction contracts will be subject to further Leadership Team approval.

## **2. RECOMMENDATIONS**

- 2.1 It is recommended that the Leadership Team approve the principle of the Council's procurement approach for the New Homes Programme as detailed in this report.
- 2.2 The approach to procurement will be subject to regular monitoring and reporting updates, and a further detailed procurement approach for later schemes will be developed during 2020 as design development progresses. This will also reflect lessons learnt from Stage One.
- 2.3 It is recommended that the Leadership Team notes that:
  - i) the Deputy Leader, Grenfell, Housing and Property will confirm the specific Framework and combination of contracts for Stage 1 schemes based on market testing;
  - ii) the Deputy Leader, Grenfell, Housing and Property will place such appropriate pre-commencement and enabling works contracts to an aggregated maximum value of £10m prior to the award of main

- construction contracts which will be subject to further Leadership Team approval. The project budget for Stage One is in the region of £40m;
- iii) these decisions will be taken in accordance with the Council's Key Decision process.

### **3. REASONS FOR DECISION**

- 3.1 To receive the funding from the GLA, all sites where grant is to be claimed must have commenced by March 2022. To meet this deadline, it is necessary that the New Homes Programme commences delivery at the earliest opportunity to support a phased delivery of the 600 homes.
- 3.2 Due to the complexities of the programme, grouping sites together means that the challenges related to timelines, consultation, financing, planning requirements and other matters can be mitigated but each group forms part of the overarching programme in respect of tenure mix, viability and planning policy requirements. Each grouping will be brought for approval to proceed with delivery so we can continue with the phased approach as well as learn from previous stages and continuously improve.
- 3.3 Approval is now sought for the Council to progress the procurement of contractors for pre-commencement and construction of the four schemes in Stage One of the New Homes Programme.
- 3.4 Enabling works, on the Stage One Sites is currently programmed to commence in April 2020, with main contract works commencing late Autumn, subject to the grant of planning consent, tendering process and other necessary approvals.

### **4. BACKGROUND**

- 4.1 As a result of the pressing need for new homes, particularly social rent homes in the Borough, an assessment was undertaken in 2018, to examine the opportunities for new development on land owned by the Council without the loss of any existing homes. This identified opportunities to deliver approximately 600 new homes of mixed tenures, adopting a strong place-making approach and incorporating the maximum possible number of affordable homes on RBKC-owned sites.
- 4.2 To maximise the provision of affordable new homes on its own sites, the Council intends to self-deliver and ensure that funding awarded is focused on maximising the Council's strategies of social investment and supply of both affordable and social rent homes.
- 4.3 The programme will seek to support the Council's commitments to sustainability, Carbon Zero, minimising fuel poverty and payment of London Living Wage. It will consider modern methods of construction along with other appropriate technologies while ensuring that quality of build and safety issues remain

paramount. Design criteria will include the standardisation of specification including mechanical and electrical plant to support efficient future management.

- 4.4 The Council has appointed a team of architects and other professional advisors to design, specify and cost each scheme in Stage One to the point of submitting and obtaining a planning consent (RIBA Stage 3). The planning applications were submitted on 31 January 2020.
- 4.5 The Council now needs to appoint a contractor to build and deliver the new homes and it is proposed that the procurement process runs concurrently with the planning process to ensure the programme is kept on track with a forecast start on site of enabling works in late Spring 2020.
- 4.6 The appointed contractor will be responsible for RIBA Stages 4 to 7 of the design and development process subject to suitable client approvals and will be monitored by professional advisors on behalf of the Council to ensure compliance and quality of delivery.
- 4.7 Certain enabling works are required prior to the main construction works commencing and examples include demolition, ground works, provision of utilities, party wall works and structural stabilisation. Additional contracts will need to be placed for these works but their value is lower than those for construction.

## 5. STAGE ONE SITES

- 5.1 There are four Stage One sites for which Planning was submitted in January 2020 and these are shown in Appendix One.
- 5.2 Through the design development period consultation has been carried out with a series of community events held for each scheme, alongside engagement with Ward Councillors as well as one to one meetings with interested residents and neighbours.
- 5.3 The table below lists each scheme in Stage One along with the total units and the proposed tenure. As noted earlier, this is one stage of the wider programme and so the tenure split, and viability are reviewed for the whole programme and not specifically on each phase.

ADDRESS	PROPOSED TENURE			
	TOTAL	Open Market	Social Rent	Intermediate Rent
175-177 KENSAL ROAD	37	0	27	10
ACKLAM ROAD (PLOTS 5 AND 6)	28	14	14	0
15 - 17 HEWER STREET	20	10	0	10
54 ST HELENS GARDENS	9	5	2	2
<b>TOTALS</b>	<b>94</b>	<b>29</b>	<b>43</b>	<b>22</b>

- 5.4 Three of the four projects in Stage One are new build schemes. Hewer Street is a refurbishment and conversion of an existing derelict Victorian building, with an element of extension.
- 5.5 All the schemes require some pre-commencement works. Hewer Street will need general stabilisation of the existing structure and party wall works with neighbours. Both Kensal Road and St Helens Gardens require the demolition of existing buildings prior to the commencement of main construction works and Acklam Road requires ground works and the provision of a new substation.
- 5.6 A cautious approach is being taken to both procurement and delivery of the Stage One schemes to minimise risk to the Council in the early stages of the wider New Homes Programme, but also to test options and identify and realise any benefits and to learn from the process to continuously improve the delivery.

## **6. PROCUREMENT APPROACH**

- 6.1 The procurement proposals set out in this report builds on the previous work undertaken during 2018 and 2019 as the New Homes Delivery programme was being initiated, and as Stage One schemes were identified and developed beyond the viability stages.
- 6.2 The New Homes Delivery Programme is high profile for RBKC as a local authority, the GLA and others for the policy approach and funding support being provided. Creating new homes for social rent aims to provide a tangible benefit to residents and highlights a clear commitment to the key priorities of the Council.
- 6.3 We are now at a stage where planning applications have been made and the appointment of contractors can run parallel to this to enable a quick commencement of works when planning permission is gained.
- 6.4 Due to the value of the contracts envisaged the Council is obligated to follow OJEU<sup>1</sup> procedures and requirements which apply. As set out in the report of 4 September 2019, several OJEU compliant procurement routes were identified and assessed. For each of these, keys risks and benefits have been identified and are detailed in Appendix Two.
- 6.5 From this analysis, use of External Framework (OJEU compliant) options create the most benefits. The use of External Frameworks also maintains an ability to introduce RBKC specific tender criteria as well as allowing the Council to ensure both Value for Money and Quality.

## **7. EXTERNAL FRAMEWORK OPTIONS**

- 7.1 As set out in the report of 4 September 2019, several existing and newly created external OJEU compliant frameworks have been reviewed as the New Homes

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<sup>1</sup> Official Journal of the Economic Union

Delivery programme has developed. The table in Appendix Three sets out those that were reviewed.

- 7.2 Through this assessment the following frameworks are proposed to progress based upon their suitability for the Stage One sites:

- Southern Construction Framework
- London Construction Programme
- GLA/ LDP2 – to remain under review as a back-up option

### **Southern Construction Framework (SCF)**

- 7.3 This is a well-known and well-used framework, with a range of larger contractors who have been used for construction schemes, including at Pre-Construction Services Agreement (PCSA) stage, in Kensington & Chelsea, and other local authorities. In addition, the framework has been used for several housing schemes in London.
- 7.4 SCF has most recently been chosen to deliver the award-winning Marlborough School, successfully completed in 2017, and more recently Barlby School, and Pembroke Road projects at RBKC.

### **London Construction Programme – Major Works (2019)**

- 7.5 This is the latest iteration from the London Borough of Haringey, using a small range of well-known and well-used contractors, for a wide range of value, from small projects at £1 million and upwards of £20 million.
- 7.6 Lots have been established for particular area zones across London and the Home Counties, as well as Pan London lots for larger schemes.
- 7.7 The previous iteration, Major Works (2014) Framework included a total of 39 housing related projects, totalling circa £350 million (including new builds, extensions, renewals, refurbishment) including for local authorities such as Camden, Southwark, Wandsworth, Ealing.
- 7.8 Appendix Four sets out specific contractor information relating to these Frameworks.

## **8. GROUPING OF STAGE ONE**

- 8.1 As mentioned earlier in this report there are options to award a tender for all four schemes in Stage One to a single contractor, to batch them in smaller packages or to award individual contracts. An assessment is underway with the two proposed frameworks to understand the interest in the market for grouping or splitting contracts as well as working with colleagues across the department to

identify and manage any risks associated with grouping of awarding tenders individually.

- 8.2 While the New Homes Delivery programme is ambitious for RBKC the construction value of the projects is not large compared to some other programmes at scale being delivered in London and so both the frameworks proposed allow the schemes to be batched or separated.
- 8.3 The following table sets out some of the benefits and risks in Grouping procurement, or undertaking separate, individual exercises:

<b>Grouping</b>	<b>Separate</b>
<b>Pros</b>	<b>Pros</b>
<ul style="list-style-type: none"> <li>• All Stage One schemes to be procured are in same local area</li> <li>• Grouping may deliver greater value for money as shared costs/contractor overheads, along with simplified client/contract management arrangements</li> <li>• Higher value for total costs of 4 schemes may attract more bidders</li> <li>• Can potentially deliver greater social investment across large contract value</li> <li>• Longer timescale overall and all schemes tied in to one programme and sign offs</li> </ul>	<ul style="list-style-type: none"> <li>• Can get specialists according to scheme type</li> <li>• Can get best quality and price on each scheme</li> <li>• Timescales and additional costs are managed</li> <li>• Potentially lower levels of commercial and environmental sustainability delivered by contractor for one site, but more local benefits direct to area/ site</li> <li>• May attract more SME/ local contractors</li> </ul>
<b>Cons</b>	<b>Cons</b>
<ul style="list-style-type: none"> <li>• Schemes are providing housing with an element of mixed use.</li> <li>• Higher costs to manage overall programme, across sites, schemes, start up and overheads likely to be higher</li> <li>• Risk as all schemes with one contractor</li> <li>• Mix of new build and rebuild/refurbishment may impact on bidders</li> <li>• Risk that contractor does not use appropriate supply chain as batching of sub-contractors who may be of larger size.</li> </ul>	<ul style="list-style-type: none"> <li>• May increase contractors' margins if tendered separately</li> <li>• Resource required to manage four different contractors within Council likely.</li> <li>• Separate contractors may mean variations in standards on build which will impact on ongoing management of completed homes</li> </ul>

## **9. CONTRACT TENDERING**

- 9.1 It is proposed that a two-stage tender process is used for Stage One sites.
- 9.2 The first stage would be to set up a Pre-Construction Services Agreement (PCSA) for each project or groups of projects during late Spring 2020 to enable the final design, procurement and tendering to be confirmed with a selected contractor.
- 9.3 This provides benefits in terms of buildability, price and package testing, design completion along with risks and benefits provision. Options for the site set up and delivery of any required enabling works would also be established at this stage, to ensure that the construction start on site target can be achieved with minimised risk.
- 9.4 The second stage would commence with the selected contractor to establish a final tender price, and ready to start main contract works on site during Autumn 2020.
- 9.5 The tender evaluation process would follow the quality:cost ratio, and either be 70:30 or 60:40. It is proposed that a 60 Quality / 40 Price, strategy would be used for the New Homes Delivery programme and this will be confirmed after fully consulting with colleagues in procurement, legal, feedback from the framework providers as well as more recent construction tenders that have been issued.

- 9.6 The Council has a minimum Quality threshold where any supplier/ tenderer scoring below 30% (out of either 60% or 70%) in terms of Quality is discounted and removed from the process. We would also identify an abnormally low prices that may be bid and subject these to detailed scrutiny to understand why they are abnormally low as this could also mean removal of the contractor from the process.
- 9.7 The final tender price and contract would be subject to formal leadership team approval with the recommendation made through a Key Decision paper to appoint a successful contractor at a confirmed contract price.

### **Cost**

- 9.8 Pricing would be undertaken on an Open Book basis, and subject to the Council's Value for Money and budget review scrutiny. Final pricing would be confirmed with the selected contractor before recommendation, and subject to vigorous scrutiny by the Project Team QS/ Cost consultant throughout the process.
- 9.9 The internal team will work closely with its appointed consultants, particularly the Cost consultant/ QS and Contract Administrator, to ensure that processes are robust, and that evaluation is thorough. These consultants were procured via the existing Architects Framework.
- 9.10 The use of a Lump Sum fixed price mechanism is proposed. It is not deemed appropriate to use Cost reimbursement, Target Cost mechanisms or Cost Plus for these schemes, due to the level of profit margin that may be applied, which for residents and taxpayers may not be palatable.
- 9.11 Equally, use of a Lump Sum fixed price, which includes construction contingency provides a transparent and open assessment of costs, and whether these are affordable against budget set.

### **Quality**

- 9.12 The quality section of the tender will be developed with colleagues across the Council including Housing Management, Procurement, Environmental Services and Community Engagement. This wider team will also be part of the evaluation process.
- 9.13 The quality section will cover experience, success in delivery, social investment, value for money; community engagement as well as specific technical areas including Health and Safety and waste management.
- 9.14 There will be specific questions on social value and social investment; on environmental sustainability and recycling; local employment and London Living Wage commitment.

9.15 As standard for any RBKC capital procurement, the tender process will be undertaken via the Capital E-sourcing portal to ensure that the logging, recording, monitoring and scoring of suppliers is centrally recorded and held on record during and after the process. The use of the portal also enables consistency regarding information, documentation, requests for information and responses to clarifications, and provides a clear audit trail for the longer term.

## **10. TYPE OF CONTRACT**

### **Contract Type**

- 10.1 Several contract types are available, the most well-known and well used being the Traditional, and the Design & Build contract. The traditional contract places main design risk with the Client and their team, while the Design & Build contract places design risk with the Contractor and their team.
- 10.2 It is proposed that the Design & Build contract be used across Stage One schemes. Any Contractor appointed at PCSA stage would be expected to contribute from RIBA Stage 3-4 onwards.
- 10.3 As the Contractor is appointed to undertake Design responsibility, it is proposed that the Client-appointed Architect/ design team would be retained by the Client in some form, to undertake the role of Client Design Adviser going forward, once the Contractor is formally appointed to deliver the construction.
- 10.4 The Client Design Adviser would therefore check, review, monitor and report to the Client regarding delivery of design objectives.

### **Form of Contract**

- 10.5 The JCT suite of contracts (2016) – Design & Build with amendments will be used. All RBKC contracts are subject to the inclusion of several specific amendments, confirmed by RBKC Legal.
- 10.6 These specific amendments are regularly reviewed and updated, and latest current version of these will be included in New Homes Programme schemes.
- 10.7 As part of tendering documentation and finalisation of process, culminating in a contract, a number of standard provisions and processes will be confirmed such as warranties, insurance provisions, performance bond requirements and any provisions for Liquidated and Ascertained Damages (LADs).

## **11. CONTRACT MANAGEMENT**

- 11.1 A range of processes will be employed to ensure effective project management so that the delivery of each project is effectively managed and monitored as a matter of course at all stages (RIBA Stage 1-7). These are listed below:

- Project Governance, scrutiny and oversight – particularly through individual Project Board with a named Senior Responsible Officer (SRO), in this case from New Homes Development Team, and inclusion of key Housing client stakeholders and internal representatives.
- Project Management – assignment of a Client Project Manager from RBKC to manage and monitor the overall project delivery from start to finish (all RIBA stages); external project management/ Employer's Agent support.
- Health and Safety, Fire Risk Assessment.
- Project cost consultant/ QS – to independently assess, monitor and value the whole project cost as it progresses.
- Assessment of cost and value at pre-tender stage to confirm affordability.
- Programme cost consultant – appointed by the Client at programme level to undertake portfolio reviews and reporting across the delivery programme, including New Homes.
- Contract administration – appointment of a Contract Administrator role (which may be part of QS/ Consultant appointment, or through PM/ Employer's Agent for instance).
- Contract monitoring – through performance targets and KPIs set out in the contract – such as numbers of apprentices, use of local labour and local SMEs.
- Appointment of an independent Clerk of Works on behalf of the Client, to monitor, advise and report on-site activities and issues on a regular and constant basis.
- Other matters – the items above are not exhaustive to the management and monitoring undertaken. Sub-consultants also form part of the wider project and design team. Health and safety/ fire risk and assessment items also form part of the team duties as a matter of course to assist with build quality and fire protection for instance. Internal Health and Safety officers and Audit teams also support on a continual basis.

## **12. GOVERNANCE AND TIMESCALES**

- 12.1 To achieve the Stage One delivery timescales, it will be necessary to progress and seek relevant Governance and Leadership Team approvals. These are listed in the table below:

<b>Activity/ Task/ Milestone</b>	<b>Proposed Date</b>
Engagement with Framework providers	February 2020
Stage One schemes overview paper to Leadership Team <ul style="list-style-type: none"><li>- to approve the procurement approach and note next stages, including PCSA agreement for each scheme will be approved by the Deputy Leader</li></ul>	March 2020
Contractor framework <ul style="list-style-type: none"><li>- Expression of Interest, mini-competition to provide Pre-Construction Services on a fee basis</li><li>- PCSA – Stage One</li></ul>	February – April 2020
Development of design, tendering of works packages	April – July 2020
Planning application decision	May 2020
Contractor's Proposals/ Pricing submission	August – September 2020
Start on site <ul style="list-style-type: none"><li>- enabling works</li><li>- demolitions,</li><li>- Groundworks</li><li>- utilities</li></ul>	April 2020 onwards
Appointment of Design & Build contractor for construction phase	Autumn 2020
Main construction	December 2020/ January 2021 onwards

## **13. OPTIONS AND ANALYSIS**

- 13.1 The New Homes Delivery team have reviewed a range of procurement methods to consider the optimum method for the way that the new homes could be delivered.
- 13.2 Analysis of the options has been undertaken to make sure the appointed contractor is procured in a compliant manner and will support the Council in maximising the number of units of the appropriate size, the schemes are financially viable, of good quality and meeting the required Council and GLA space standards.

13.3 As part of this process consideration has been given in respect of each methodology to confirm the suitability to progress the opportunity for delivering new homes.

#### **14. CONSULTATION AND COMMUNITY ENGAGEMENT**

- 14.1 A programme of public consultation and engagement has been established for the Stage One Sites which commenced in the first half of 2019 including events on a weekday evening, and on a Saturday for each site. This was repeated, so the Council could share updated potential designs and consider the feedback that we had received.
- 14.2 Further consultation and engagement occurred in the Autumn of 2019 and January 2020. Councillors have been invited to attend all events and have also been offered briefings.
- 14.3 The specific site consultation events invited all residents and business to attend, comment and also participate in a discussion session moderated by an external facilitator.
- 14.4 Attendees' views were captured and recorded being reflected, where possible and appropriate in the development of the proposals.

14.5 An email address and web page has been set up providing more information including the boards used at the consultation events. The web address is: [www.rbkc.gov.uk/housing/new-homes-consultation/new-homes-consultation](http://www.rbkc.gov.uk/housing/new-homes-consultation/new-homes-consultation).

#### **15. HUMAN RESOURCES AND EQUALITIES IMPLICATIONS**

- 15.1 As the New Homes Delivery programme takes shape, we are undertaking a Equalities Impact Assessment (EQIA) of the proposed programme which will be reviewed on a regular basis.
- 15.2 The major equalities impacts are likely to be associated with those in housing need including homeless households and residents on the Housing Register, as we increase the supply of social and affordable accommodation in the Borough.
- 15.3 There are no direct human resources implications associated with this report.

#### **16. LEGAL IMPLICATIONS**

- 16.1 Section 243 of the Housing Act 1985 gives the Council a general power to construct housing accommodation on land acquired for that purpose.
- 16.2 Section 9 of the Housing Act 1985 empowers the Council to provide housing accommodation by erecting houses, or converting buildings into houses, on land acquired by them.

- 16.3 Section 1(1) of the Localism Act 2011 introduced the “general power of competence” for local authorities, defined as “the power to do anything that individuals generally may do” and which expressly includes the power to do something for the benefit of the Council, its area or persons resident or present in its area. The generality of the power conferred by subsection (1) is not limited by the existence of any other power of the Council which (to any extent) overlaps the general power.
- 16.4 In exercising this power, a local authority is still subject to its general duties (such as the fiduciary duties it owes to its rates and local taxpayers and to the public law requirements to exercise the general power of competence of a proper purpose).
- 16.5 Section 4(2) of the Localism Act 2011 provides that where, in exercise of the general power, a local authority does things for a commercial purpose the authority must do them through a company. Developing and managing the Council’s land in order to achieve its aim for housing especially affordable housing is a non-commercial purpose.
- 16.6 A combination of powers (section 1 Localism Act 2011 as above, Section 95 Local Government Act 2003 and Section 111 Local Government Act 1972) permits the Council to trade on a commercial basis. Section 1 is qualified by Section 4 of the same Act which says that if a local authority wishes to do something for a commercial purpose then it must do so through a company limited by shares. As part of the work to be undertaken in relation to how the sites, further consideration will be required as to whether any sites will need to be delivered through a company limited by shares.
- 16.7 Any procurement must be undertaken in compliance with the Public Contracts Regulations 2015 and the Council’s Contract Procedure Rules to ensure best value under the Local Government Act 1999 and will need to be taken into account when considering the appropriate models for delivering the sites.

## **17. FINANCIAL, PROPERTY, IT AND ANY OTHER RESOURCES IMPLICATIONS**

- 17.1 In October 2018, the Council announced a new programme which would deliver 600 new homes in the Borough, of which at least 300 will be for social rent. This report sets out the five sites across the Borough which will for Stage 1 of the programme.
- 17.2 It is currently proposed that the development of the new homes will be through a self-delivery model which means that the Council will secure the planning consent of the schemes and then manage, with suitable professional safeguards manage the development of the sites which would be built by a contractor following an appropriate tender exercise.
- 17.3 The final costs for the Stage 1 sites will be dependent on the mix of tenures across the sites and final designs but these have been estimated at £40m for the build costs and associated fees.

- 17.4 It is expected that up to £10m will be drawn down to part fund pre commencement and enabling works these Stage 1 sites. The delegation to award contract being made to the Deputy Leader, Grenfell, Housing and Property.
- 17.5 The provision of social housing attracts grant funding from the Greater London Authority of £100k per dwelling. In 2018, the Council was successful at securing £33.6m of grant to fund the programme and which is now available to draw down as social housing is developed across the sites.
- 17.6 The four sites in Stage 1 (as set out on Page 3 of the report) is estimated to provide 94 new homes. On the basis that some 70% will be affordable homes.
- 17.7 It is anticipated that £4.3m of grant in respect of the social rent units and a further grant of £616k for the intermediate homes will be drawn down.
- 17.8 The remainder of the costs of circa £35m are assumed to be funded through borrowing, but the Council will continue to explore other funding options, such as use of Section 106 balances and other contributions which would reduce the need to borrow.
- 17.9 The main construction contracts will only be awarded once there is formal leadership Team approval and the necessary funding has been confirmed.
- 17.10 The capital investment required for the programme has been estimated at £250m and has been included within the Capital Programme that was agreed by Full Council on 4 March 2020.

### **Strategic Procurement comments**

- 17.11 This report is requesting to begin stage one of delivery the development programme for RBKC, which includes 4 sites, 3 new homes build projects and 1 refurbishment project. To deliver this first stage there are a variety of decisions that need to be researched and made in relation to the procurement, including but not limited to, programme delivery, that is, it may be split between 1 or more contractors to reflect the risk appetite of the Council, the appropriate route to market, including use of the appropriate framework, the right type of contract to deliver different elements of the projects, management of the programme to ensure conditions of Grant funding are met and the contract management to be established to manage delivery and ensure oversight and that objectives are met at a project and programme level.
- 17.12 Under the Public Contract Regulations (2015), early market engagement is encouraged, to better understand how the market may propose to deliver these types of programmes, within the constraints given by the Council. It is recommended that between now and beginning the procurement early market engagement is undertaken to better understand any potential risks to delivery or pressure that may be in the market currently. This should help to inform the final decision on the number of contractors required to deliver the programme,

type of contract and how the programme may be split to ensure it meets objectives and outcomes of the Council. The outcome of this early market engagement should be reflected in further decision papers.

- 17.13 It is also recommended that further detailed research into the appropriate framework for delivery of the procurement to ensure that the route to market supports delivery of the programme appropriately. This should also inform the resulting first tier criteria for evaluation, that is the price / quality split. It will also support in establishing the market cost for the projects and risks to delivery which will help ensure projects are delivered within the project cost established through the procurement process.

Robyn Fairman  
**Executive Director Grenfell**

Anna Benbow  
**Director Social Investment and Property**

**Local Government Act 1972 (as amended) – Background papers used in the preparation of this report:** none

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**Mandatory clearance requirements for all Key and Executive Decision reports**

Cleared by Finance (officer's initials)	TE
Cleared by <u>Corporate</u> Finance (officer's initials)	TE
Cleared by Director of Law (officer's initials)	AJ
Cleared by Communications (officer's initials)	NT

## Appendix One – Location of Stage One Sites



## Appendix Two – List of Procurement Options

Procurement Route	Risks	Benefits
<b>Open competitive tendering</b>	<ul style="list-style-type: none"> <li>• Longer lead- in times</li> <li>• Staff capacity to manage procurement</li> <li>• OJEU impacts as would need to follow full process due to value of contracts.</li> <li>• Time and resource issues.</li> <li>• Risk of no tenderers</li> <li>• Risk of underbidding to win</li> <li>• Risk of no pre-award, ability to negotiate</li> </ul>	<ul style="list-style-type: none"> <li>• Competitive pricing</li> <li>• Open to more bidders inc. SME</li> <li>• Customisable response</li> <li>• Suitable for niche development types</li> </ul>
<b>External Framework (OJEU compliant)</b>	<ul style="list-style-type: none"> <li>• May not be flexible to reflect changing market conditions</li> <li>• Fixed list of suppliers</li> <li>• Stated limits on value / size of schemes</li> <li>• Challenge of different types of build / refurbishment</li> <li>• May not have flexibility on evaluation criteria which can be applied</li> </ul>	<ul style="list-style-type: none"> <li>• Already OJEU compliant</li> <li>• Pre-qualification, experience, financial checks in place to enter Framework</li> <li>• Longevity of relationship</li> <li>• Quicker procurement period</li> <li>• Reduced resource as streamlined procurement</li> <li>• Can still achieve VFM</li> <li>• Economies of scale savings if more than one project included within bids obtained</li> <li>• Depending upon Framework chosen, flexibility and economies of scale possible</li> <li>• Call off or mini competition available</li> </ul>
<b>RBKC (Housing)Framework</b>	<ul style="list-style-type: none"> <li>• Will not be approved until Dec 2019 earliest</li> <li>• Start date of April 2020 to implement</li> <li>• Early stages of Framework so pitfalls and refinements still to be identified.</li> </ul>	<ul style="list-style-type: none"> <li>• Part of RBKC approach</li> <li>• Standard specification</li> <li>• Compliant with RBKC requirements</li> <li>• OJEU compliant</li> </ul>
<b>Collaboration with Registered Provider</b>	<ul style="list-style-type: none"> <li>• Complex ownership / delivery structure needs to be set up</li> <li>• Possible tie in with long term relationship/ownership arrangement</li> <li>• Cost impact as 'administration fees' or 'profit margin' would apply</li> </ul>	<ul style="list-style-type: none"> <li>• Ability to fast track delivery</li> <li>• Optimisation of alignment with GLA Grant deadlines</li> <li>• Established skill set and expertise.</li> </ul>
<b>Joint Venture</b>	<ul style="list-style-type: none"> <li>• Ownership/ governance, delivery structures require detailed set up and will take time</li> </ul>	<ul style="list-style-type: none"> <li>• Long-term relationship/ ownership arrangement</li> </ul>

Procurement Route	Risks	Benefits
	<ul style="list-style-type: none"> <li>• Expensive - Cost impact as 'administration fees' and profit margin would apply</li> <li>• Impact on no. of units delivered due to £ costs.</li> </ul>	

### Appendix Three External Frameworks

Framework	Time and Value	Comments/ Benefits
Scape Group	2017-2021 Major works £2-20m	Tried and tested but relies on a small number of well-known contractors but only one in each area which limits competition Single supplier so cannot hold a mini-competition to demonstrate VFM.
Southern Construction Framework	Runs until 2023 and for London projects over £5million	Established framework with qualified larger-scale contractors for new homes builds.
Fusion 21	April 2019 - 2023 Construction work (Design and build)	Lower value threshold and a broader range of small contractors.
GLA London Development Panel 2 (LDP2)	Runs from 2018 – 2022	Broad range of contractors and construction values and has been set up by the GLA funder to support programme.
Catalyst Housing Group Framework	Lot 4 – London – up to £12m Lot 5 – London – £12-30m Lot 6 – London – above £30m	Orientated towards high value schemes, larger contractors, with possible limited targeted towards smaller value schemes.
Pagabo – National Framework for Major Construction works AND national framework for medium works	April 2016 – March 2020 Lot 1 - £5m-£15m Lot 2 - £15m-£50m Lot 3 - £50m+ OR £250k - £10m Lot 1 - £250k-£1m Lot 2 - £1-£5m Lot 3 - £5-10m	Range of values and range of suppliers but more complex and split between major and medium.
NHS LPP – Medium value works – National framework	01-08 2017 until 31-07 2021  £500k-£5m 70 lots, work categories and regions - General building / Heritage Building / Modular build	NHS focused so may not have new build housing skill set and specific type of build required for programme.
Homes England – Delivery Partner Panel 3 (DPP3)	Lot – East and South East  31 <sup>st</sup> July 2017 + 4 years	Government linked and specifically focussed on housing with range of contractors.

<b>Framework</b>	<b>Time and Value</b>	<b>Comments/ Benefits</b>
London Construction Programme (LCP)	<p>2019 onwards, 5 years to 2024.</p> <p>Lot 1 – Housing and Residential</p> <p>Lot 1.1E West area £1-5 million</p> <p>Lot 1.2 Pan London £5-10 million</p>	<p>Local authorities and public-sector organisations for London and Home Counties.</p> <p>Flexibility, light touch Expression of Interest stage if necessary, known contractors with track record</p>

## Appendix Four – New Homes Programme Recommended External Construction Frameworks

<b>Framework</b>	<b>Value/ Timescale/ Lot</b>	<b>Details of contractors</b>	
Southern Construction Framework	To March 2023	London Projects £5m+ - BAM Construction - Galliford Try - ISG - Kier	- Mace - Morgan Sindall - Wates - Willmott Dixon
GLA London Development Panel 2 (LDP2)	To 2022 single-lot framework of 29 developers, house builders, contractors and RPs	- A2Dominion Housing Group Ltd - Be Living Ltd - Bellway Home Ltd - BDW Trading Ltd (Barratt) - Catalyst Housing Ltd - Countryside Properties (UK) Ltd - Durkan Ltd - Engie Regeneration Consortium - Galliford Try Partnerships Ltd - Hadley Property Group Holdings Ltd - Higgins Group Plc - Hill Holdings Ltd - Hyde Vale Ltd - Lendlease Europe Holdings Ltd - London & Quadrant Housing Trust	- Morgan Sindall Consortium (Lovell Partnerships Ltd - Native Land Ltd - Notting Hill Genesis - Optivo Homes Limited - Peabody Developments Limited - Pinnacle Group Ltd - Prospect House Consortium - Quintain Projects Ltd - Redrow Homes Ltd - Swan Igloo Consortium - Telford Homes Plc - The Berkeley Group Plc - U + I Group Plc - United Living (South) Ltd
London Construction Programme	Lot 1 – Housing and Residential Lot 1.1 E – West area £1-5 million Lot 1.2 – Pan London £5-10 million  To 2024  Local authorities and other public-sector organisations for London and the Home Counties	- Lot 1.1 Axis Europe Glenman Quinn London Stack London	- Lot 1.2 Amber Construction Durkan ENGIE Regeneration Geoffrey Osborne Rooff Thomas Sinden Willmott Dixon