

Item No.	Classification: Open	Date: 23 May 2023	Meeting Name: Strategic Director of Housing
Report title:		Gateway 3 – Cost Variation Decision Temporary Accommodation – Contract 1	
Ward(s) or groups affected:		Nunhead & Queens, Camberwell Green and St Giles	
From:		Director of New Homes Development	

RECOMMENDATION(S)

That the Strategic Director of Housing:

1. Formalises his approval of the variation to the Temporary Accommodation Contract 1, refurbishment/conversion contract with Niblock (Builders) Limited (Niblock), varying the contract sum from £2,086,229 to £2,647,251, an increase of £561,022.
2. Approves a variation to the contingency for the above contract, increasing the contingency from £104,311 to £132,363, an increase of £28,052.
3. Notes the increase to estimated on-costs, including a 4% development allowance associated with the contract, as a result of the above requested approvals from £371,138 to £403,065 an increase of £31,927.
4. Notes the increase of the total scheme costs from £2,561,678 to £3,182,679 resulting to a total scheme variation of £621,001.
5. Notes that this report was considered at the Departmental Contract Review Board (DCRB) in July 2022 but was not sent for approval until May 2023.

BACKGROUND INFORMATION

6. This report seeks formalisation of an approval of a variation to the build contract between Niblock and the council, awarded on 1 October 2021 for the refurbishment and conversion of 134 Camberwell Road, 243 Queens Road and 93 Herne Hill; providing 12 flats for council rent.
7. The approved build cost at Gateway 2 (GW2) was £1,852,247 plus a 5% contingency fund of £92,612. Other on costs including a 4% development allowance were estimated at £265,725, bringing the total approved scheme costs to £2,210,584. Subsequent works cost increases, and on costs were approved at GW3 in February 2022, resulting in a revised works cost of £2,086,229 and total scheme cost of £2,561,678. This report is seeking formalisation of an approval for additional funding of £621,001 to reflect the variations necessary for the main contract to continue, on-costs and a revised contingency amount of 5% of the increased works costs. Please

see table of variations since GW2 to date at paragraph 40.

8. This report was discussed at DCRB on 11 July 2022 however the report was not sent to the decision maker for approval. This report has been resubmitted to the Strategic Director of Housing to be signed in order to formalise the approval.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

9. The table below identifies the variations on top of the contract sum approved in the GW 2 dated 29 June 2021, as amended by GW3 approval in February 2022 of £2,086,229 to £2,647,251.

Item	Cost
Air source heat pumps (ASHP), and associated works.	£293,487
Extra over costs for sound insulation above building regulations, required by planning.	£160,473
General Maintenance – unforeseen works due to the nature of the works.	£38,660
Miscellaneous (works damp and timber treatment, structural works and structural engineer's fees, additional roofing works).	£68,402
Total	£561,022
Current Forecast Final account	£2,647,251
Forecast Final Account at GW3 February 2022	£2,086,229
Variance from GW3 February 2022	£561,022
Percentage increase since GW 3 February 2022	27%

Reasons for Variation

10. The tendered heating system was to provide gas central heating, as the nature of the contracts was refurbishment and conversion with existing provision of gas, as opposed to new build; and the scheme was tendered on this basis. Post tender the council informed that the use of gas was not appropriate in terms of meeting the strategy for net zero carbon. In light of this other heating options were explored in order to remove the use of gas from the properties, and provide alternative heat source. Provision of air source heat pump and electric heating was explored. The option for electric heating was not pursued on the basis that running costs to residents would have been excessive; therefore, the only solution was to install air source heat pumps. The sum of £191,495 was approved at previous GW3, but did

not allow for other associated works to make the properties air tight and adequately insulated. Costs for building works to provide an extra unit were approved at GW3, however, the planning fee was not included in the Employers Agent's (EA) cost assessment. Costs were not included at the time as designs were being developed and the EA had not included the items in the assessment at the time.

11. The condition of the properties was worse than initial pre-tender surveys revealed. Some areas were not accessible at the time due to security screens being in place whereby the condition of the windows could not be fully realised, lack of access to roof areas, and discovery of ongoing leaks, additional works being exposed as the building were being stripped, and general lack of maintenance over the years.

Lessons Learned

12. Post tender, and during the contract phase the tender sum has increased by 42.9% from the original sum of £1,852,247. Lessons learned for the council embarking on future refurbishment/conversion works of existing properties are to consider a higher level of contingency. To conduct specification review post planning to ensure that any changes as part of the planning process are adequately captured and costed pre contract.

Future Proposals for this Service

13. No future proposals recommended for this service.

Alternative Options Considered

14. The council has already entered into build contract with Niblock, who are currently on site. The only option that could be considered is to revert to the original proposal to provide gas central heating. This option would mean that in the future residents may suffer disruption if retrospective zero carbon solution are fitted in the future, and potentially cost more. Therefore, it would seem reasonable to future proof the build as part of this works contract.

Identified risks for the Variation

15. The risks are set out in the table below:

RISK		RISK LEVEL	MITIGATION ACTION
1.	Project delivery delays (general)	Medium	Liquidated Ascertained Damages sums have been included as part of the contract and will be claimable should the project overrun without any justification. Any extension of times will be fully scrutinised, justified and costed by the EA prior to

			agreement. Project progress will be monitored and slow progress will be addressed in the monthly project meetings.
2.	Covid -19 Implications	Low	Sharpe Pritchard Solicitors for the new homes team have provided advice on wording regarding Covid19 clauses to be added to the contract and financial assistance we can offer to contractors
3.	Further Cost Implications	Low	The EA has presented current cost estimates. As the contractor is still in the process of firming up designs and opening up areas for assessment there could potentially be further cost fluctuation with omissions and additions to the contract sum. As the build is well advance, the risk of any major fluctuations is now reduced.
4.	War in Ukraine	Medium/High	Potential delays due to availability of labour and materials. Potential of cost increase due to rising costs of labour and materials due to availability..
5.	Risk of potential procurement challenge	Low	Post tender risk of challenge due to change in specification. EA has confirmed that the outcome of the tender would not have been different if the costs to the changes had been included within the unsuccessful tenders. In addition other cost increases are due to the nature of the contract being refurbishment and conversion of period properties being an unknown quantity until the properties are stripped out.
6.	Financial Risk	Low	Niblock is a Small and Medium Enterprise (SME) and has been appointed on all three TA sites. In April 2023 Niblock had a credit

			score of “secure”. Regular finance checks will be undertaken through the contract period.
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Policy framework implications

16. The development of these 12 refurbished/converted homes aligns with the council's principles and visions for a new housing strategy, which is aimed at increasing the availability, affordability and quality of homes in the borough. The new homes will play a key role in assisting the council to achieve its target of building 11,000 new homes by 2043.

Contract management and monitoring

17. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.
18. The management and administration of the build contract and the completion of the project will continue to be project managed through the Southwark Construction.
19. The contractor's performance is monitored and managed by the EA, Baily Garner for the duration of the project. A Clerk of Works has been appointed to inspect progress on site once a week and provide a written report on a weekly basis highlighting the quality of the contractors workmanship, flag any health and safety issues and will monitor progress against programme. The Project Manager for this scheme monitors Baily Garner's performance on a monthly basis using Key Performance Indicators which is also reviewed by the Development Manager. Annual performance reviews will also be undertaken in accordance with contract standing orders.

Community, equalities (including socio-economic) and health impacts

20. The provision of 12 refurbished homes provides a positive impact on health inequalities, as the scheme is designed to current quality and space standards that will contribute towards addressing health inequalities. As 100% of the new homes will be allocated to existing residents/those in housing need in the borough, residents who are living in overcrowded conditions, or unsuitable housing will benefit. In addition to this rent levels are set at council rent, that are lower than London Affordable rent levels and market rent levels making them genuinely affordable. Health and wellbeing of residents is gained by conversion of properties previously used for shared temporary accommodation. The redevelopment of the houses is to provide quality

self-contained flats. The development does not impact on existing green space.

21. The proposals to increase the supply of affordable, good quality homes will benefit households in need from all Southwark communities, and will increase the housing options available for older people and people with disabilities, where it is possible working with the constraints of existing period properties.

Community impact statement

22. The 2020 Route to 11,000 Housing Strategy for Southwark, highlights an acute shortage of council housing and a continuing need for affordable housing. 20,000 residents are currently on the council's waiting list; and there are 52,597 homes in management. The borough is experiencing very high house prices that are outside the reach of many of its residents. It has the highest house prices in the housing sub-region. The average property price in the borough is £654,779 which is an increase of 3.9% in the last year. This compares with the average London property price of £603,855 which is a change of 1.4% in the last year. The rental market in the borough is also experiencing high rent levels with average lower quartile rent for a two bed in excess of £2k per month. The average income per house hold is £31k, making ownership and rental options out of reach.

23. At the time of the 2011 census there were 18,547 overcrowded households in Southwark, a higher number, and a higher percentage (15.3%), than any of the other four boroughs in the sub-region. Over the period 1981- 2012 the population of Southwark increased by 34%, the fastest growth in the sub-region by some margin. This helps to demonstrate a continuing need for more homes and particularly for affordable homes in the borough.

24. Cabinet agreed a new vision for Southwark through its 2013 to 2043 housing strategy which included a principle to use every tool at our disposal to increase the supply of all kinds of homes across Southwark.

25. The proposals to increase the supply of affordable, good quality homes will benefit households in need from all Southwark communities, and will increase the housing options available for older people and people with disabilities.

26. Those households in the vicinity of the new developments may experience inconvenience and disruption in the short term, whilst works are taking place but such communities will benefit in the longer term from the provision of new homes. Particularly as 100% of these homes will be let to existing tenants from the local area subject to an agreed local lettings policy. The council's local lettings policy is currently under review. If the review is completed in time for the delivery of this project, then 100% local lettings may apply.

27. As the projects are refurbishment/conversion of existing street properties, not located on an estate consultation in line with the charter of principles agreed

by cabinet in November 2014, will not apply. We will however, ensure that any residents affected by works will be receive regular written updates from the contractor.

Climate change implications

28. The development will comply with Building Regulations Part L that addresses the conservation of fuel and power, and guarantees eco-friendly efficient properties and minimise carbon emissions, as part of a drive towards a greener future. Approval of the change from gas central heating to air source heat pumps will assist to achieve this.

Social Value considerations

29. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the wellbeing of the local area can be secured. The social value considerations included in the tender (as outlined in the GW1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

30. The councils approach to procurement of design, development and construction process will ensure a requirement to maintain and improve the sustainability of each tendered project.

31. A low energy, efficient and cost effective building engineering services design that keeps running costs to a minimum will be an essential component of the project brief. Key considerations will include:

- Consideration of whole life-cycle costs.
- Sustainable sourcing.
- Incorporation of environmentally benign heating and lighting provision.
- Provision of facilities and equipment to encourage the re-use and recycling of materials including, where practical, water recycling.
- Ensuring projects achieve Code of Sustainable Homes criteria or any successor requirement.

32. The appointed contractor will be participating in a local employment and training initiative in line with Southwark Economic Wellbeing Strategy 2012-20. The initiative will generally conform to any local government policy including requirements set-out by the Homes and Community Agency and/or GLA that generally will encompass the contractor, wherever possible, being encouraged to employ local subcontractors and labour and shall involve the training and employment of local people. Such employment and training will be relevant to the needs of the local community.

33. Niblock have committed to the following as part of their tender submission:

- One Apprenticeship placement on this contract.

- Four weeks work experience throughout their contract (trade or office based).
- Two residents under 24 years old and two residents over 24 years old offered in CV writing, interview workshop, employment skills.
- Diversity training.
- Fund one Strengthening Minds Programme in a school/community of southwark's choice. Niblock work in partnership with Strength in Minds charity, who deliver a range of support programmes to young people between the ages of 7-17.
- Site visits for school children or residents.
- Provision of a single point of contact to strategically deliver their SV strategy.
- In-house training.
- Third part support through Strengthening Minds.
- Themes Outcomes and Measures (TOMs) template to map social value outcomes.

34. Commitments are monitored at monthly progress meetings as part of the contractors report and summarised in quarterly Social Value Reports.

Economic considerations

35. The design brief for the new homes will be developed in consultation with the 'user client' officers and make it clear that the council is seeking developments that are not only attractive and functional in their design but also durable and easy to maintain with low running costs.

36. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that contractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. The 11,000 new homes programme is a strategically important undertaking for the council and its benefits are expected to be realised in a number of ways, including the recruitment of qualified staff, retention of staff and an improved service delivery to the council. Niblock have confirmed as part of their tender return that they pay their directly employed staff and subcontractors the LLW and have processes in place to monitor this.

Social considerations

37. The new housing will provide high quality affordable housing for local people in need of accommodation. Up to 50% of these homes will be made available to existing tenants in the local area based on an agreed local lettings policy. The remainder will be made available to other households in need of accommodation from the council's housing register. As noted in paragraph 14, the local lettings plan is currently under review, which could result in 100% local lettings being available by the time the project completes. The new rented homes will be let at council rent levels.

38. The contractor is obliged to work with the council approved local employment and skills agencies to recruit borough residents into construction industry apprenticeships. The requirement outlined in the tender documents was to meet the Fairer Future criteria of 1 apprenticeship per £1m of spend; which results in one placement on this project, as per tender. The contractor has employed an apprentice on this project (please see appendices for more details). As the contract value has risen over £2 million the project team will discuss the possibility of recruiting additional apprentices on this project.

Environmental/Sustainability considerations

39. By investing in high quality, well designed buildings and estates the council aim to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough.
40. As part of the design development process, there will be a requirement for environmental assessments to be completed, with a view to identifying what impact would be caused by any proposed development.

Financial Implications

41. The total value of the contract, including previous variations is £2,647,251. With total on-costs of £535,428 which includes a contingency of £132,363, this results in a revised total scheme cost of £3,182,679. The variation from GW3 in February 2022 of £621,001 will be resourced from the resources identified for the new build programme which includes borrowing. There is GLA grant funding for the sum of £707,686 secured for this scheme. The budget will be derived from the unallocated new build budget to the project code H-8888-9828. The table below shows the movement of costs since GW3 approval in February 2022 and cost movement since.

	GW3 Feb 2022	GW3 July 2022	Variance from GW3 Feb 2022
Works	£2,086,229	£2,647,251	£561,022
Other Costs	£287,639	£297,175	£9,536
Contingency 5%	£104,311	£132,363	£28,052
Development Fees 4%	£83,499	£105,890	£22,391
Total on costs	£475,449	£535,428	£59,979
Total Scheme Cost	£2,561,678	£3,182,679	£621,001

42. On costs have increased by £31,927 due to an additional allowance for Party Wall Awards and Fire Safety Consultants, as the original budget was understated. Also, recalculated development fees.

43. The table below shows the revised spend profile:

	Previous Year's Spend	2022/23	Total
Works cost	£470,019	£2,177,232	£2,647,251
Contingency (on works)	-	£132,363	£132,363
Fees	£174,813	£228,252	£403,065
Total	£644,832	£2,537,847	£3,182,679

Investment Implications (Housing Contracts only)

44. Not applicable.

Legal Implications

45. Please see the comments from the Assistant Chief Executive - Governance and Assurance

Consultation

46. Consultation with residents or a tenant's panel for this variation is not required.

47. The contractor currently keeps neighbouring street properties updated on the project construction by sending newsletters on a quarterly basis.

Other implications or issues

48. No other implications or issues.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M23/007)

49. This report seeks the formalisation of the prior approval from the Strategic Director of Housing and Modernisation for the Temporary Accommodation Contract 1, refurbishment/conversion contract with Niblock (Builders) Limited to vary the contract sum by £561,022 to £2,647,251 for the reasons outlined in the report.

50. The report also seeks approval for the additional contingency of £28,052 and additional on costs of £31,927 resulting in a total revised scheme cost of £3,182,679. The financial implications sections details how these costs will be funded.

51. Any further variations or extensions of the works order beyond the scope of this report will require further approval in line with the council's procurement protocols will require approval as per the Council's protocols.

Head of Procurement

52. This report seeks approval from the Strategic Director of Housing, who formalises their prior approval for Temporary Accommodation Contract 1, refurbishment/conversion contract with Niblock (Builders) Limited to vary the contract sum by £561,022.00 making the total sum £2,647,251.00.
53. The Strategic Director of housing notes the reason for the variation is detailed in paragraphs 9 to 11, the risks are detailed in paragraph 15, management and monitoring of the contract are detailed in paragraphs 17 to 19, the impact on equalities, health and climate change is detailed in paragraphs 20 to 28, confirmation of the payment of LLW is detailed in paragraph 34, and there are NO additional social commitments as part of this variation.

Assistant Chief Executive - Governance and Assurance

54. This report seeks the formalisation of the approval of the Strategic Director of Housing to a variation of the refurbishment/conversion contract (Temporary Accommodation 1) with Niblock as further detailed in paragraphs 1-5. Contract Standing Order (CSO) 6.6.3(e) permits this decision to be made by the relevant chief officer. As noted in paragraphs 5 and 8, this decision was considered by the Strategic Director for approval at DCRB in July 2022, but the report was not submitted for signature.
55. The original contract value fell below the Public Contract Regulations (PCR) 2015 threshold, so the procurement was not subject to the PCR tendering requirements, but was procured in accordance with the council's CSOs by tendering through the approved list. The value of the contract including the variation sum remains below the PCR threshold, and therefore is not subject to PCR requirements. The reasons for requiring this variation sum are noted in paragraphs 10 and 11, and as noted in paragraph 15.5 the change in specification post award and additional costs related to refurbishment/conversion activities would not have had any bearing on the procurement outcome.
56. CSO 2.3 requires that no steps are taken to implement a variation unless the expenditure has been approved. Paragraphs 41-43 confirm the financial implications relating to this variation.

Director of Exchequer (for housing contracts only)

57. Not applicable

Director of Education (for schools contracts only)

58. Not applicable.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report (and as otherwise recorded in Part B below).

Signature.....Michael Scorer

Designation.....Strategic Director of Housing

Date19 May 2023

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions that are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available (see 'FOR DELEGATED DECISIONS' section of the guidance).

1. DECISION(S)
As set out in the recommendations of the report.
2. REASONS FOR DECISION
As set out in the report.
3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION
N/A

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION *

None

* Contract standing order 6.6.1 states that for contract Variations with an Estimated Contract Value of £100,000 or more, the lead contract officer (LCO) must consult with the relevant cabinet member before the decision is implemented.

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST

If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.

Not applicable

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

or

~~**I declare that I was informed of the conflicts of interests set out in Part B4.***~~

(* - Please delete as appropriate)

BACKGROUND PAPERS

Background Papers	Held At	Contact
<p>Gateway 2 Works Contract for the New Homes Delivery Programme – Temporary Accommodation Contract 1</p> <p>https://moderngov.southwark.gov.uk/documents/s99755/GW2%20-%20Temp%20Accommodation%20refurbishment%20Contract%20-%20open.pdf</p> <p>Gateway 3 – Variation Decision Temporary Accommodation Contract 1</p> <p>Asset Management\New Homes Delivery Team\Programme\Phase 5\TA Contract 1 Refurb Conversion\1 Key Documents\Reporting and Governance\GW3\GW3 Feb 2022\Signed GW3 Feb 2022</p>	Southwark Construction, 160 Tooley Street	<p>Lorraine Roach – Development Manager</p> <p>Lorraine.Roach@southwark.gov.uk</p>

APPENDICES

No	Title
None	

AUDIT TRAIL

Lead Officer	Stuart Davis - Director of New Homes Development		
Report Author	Coral Mitchell & William Owen		
Version	Final		
Dated	13/04/2023		
Key Decision?	Yes		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director of Finance	Yes	No	
Head of Procurement	Yes	No	

Assistant Chief Executive - Governance and Assurance	Yes	No
Director of Exchequer (for housing contracts only)	No	No
Cabinet Member	No	No
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team		22 May 2023