

Item No.	Classification: Open	Date: 23 May 2023	Meeting Name: Strategic Director of Housing
Report title:		Gateway 3 – Variation Decision Temporary Accommodation – Contract 3	
Ward(s) or groups affected:		Old Kent Road and St Giles	
From:		Director of New Homes Development	

RECOMMENDATION(S)

That the Strategic Director of Housing:

1. Formalises his previous approval to the variation of the Temporary Accommodation Contract 3, refurbishment/conversion contract with Niblock (Builders) Limited (Niblock) at an additional cost of £593,073 varying the contract sum from £1,869,695 to £2,462,768.
2. Approves a variation to the contingency for the above contract, increasing the sum by £29,653 varying the contingency from £93,485 to £123,138.
3. Notes the increase to the estimated other on-costs, including 4% development allowance associated with the contract, from £246,278 to £481,261 resulting in a variance of £234,983.
4. Notes the increase of the total scheme costs from £2,209,458 to £3,067,167 with a variance of £857,709.
5. Notes that this report was considered at the Departmental Contracts Review Board (DCRB) in July 2022 and was not sent for approval until April 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 9 December 2021 for the refurbishment and conversion of 46 Trafalgar Avenue, 25-27 Trafalgar Avenue and 93 Grove Lane; providing ten units for council rent.
7. The approved build cost at Gateway (GW) 2 was £1,869,695 plus a 5% contingency fund of £93,485. Total on-costs including 4% development allowance were estimated at £339,763, bringing the total approved scheme costs to £2,209,458. This report is seeking formalisation of the approval for additional funding of £857,709, this includes £593,073 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.

8. On cost for the scheme have increased due to squatters gaining entry to one of the hostels in the contract. Decommissioning works and additional security was provided for the hostels to reduce the risk of further squatters to the other hostels. This was a high risk to the council as they were at the point of entering into contract with Niblock without vacant positions at the hostels which brought some complexities to the contract and risk to the start on site date.
9. This report was discussed at DCRB on 11 July 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

10. The table below identifies the variations on top of the revised contract sum of from £1,869,695 to £2,462,768.

Item	Cost
Change from gas central heating to air source heat pumps (ASHP) including damp proofing works	£286,743
Other variations as a result of fluctuations, due to the nature of the works being conversion and refurbishment. Including damp proofing and structural works	£306,330
Total Works Cost Variations	£593,073
Original contract sum	£1,869,695
Revised contract sum	£2,462,768

Reasons for Variation

11. 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

12. There have been variations to the initial tendered drawings due to ongoing discussions with the planners, were not cross referenced back, and corrected in the final tender document. The final planning consent was not obtained until November 2021. Other variations are due to the nature of the contract being refurbishment and conversion, whereby there are many unknowns until the contractor is on site.

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 Employers Agent (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.
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 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.

Policy framework implications

16. The development of these ten 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 new homes team.
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 ten 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 £2,000 per month. The average income per house hold is £31,000, 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 benefits 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 notified prior to works commencing.

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 well being 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 Greater London Authority (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 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.
37. Following award, quality improvements and costs implications linked to the payment of LLW will be monitored as part of the contract review process.

Social considerations

38. 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. The new rented homes will be let at council rent levels.
39. 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. 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

40. 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.
41. 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

42. The total value of the contract, including the variations is £2,462,768. With on-costs of £604,399, which includes a contingency of £123,138, this results in a revised total scheme cost of £3,067,167. The variation of £857,709 will be resourced from the resources identified for the new build programme which includes borrowing. There is GLA grant funding for the sum of £536,227 secured for this scheme. The budget will be derived from the unallocated new build budget to the project code H-8888-9814. The table below shows the movement of costs since GW2.

	GW2	GW3	Variance
Works	£1,869,695	£2,462,768	£593,073
Other Costs	£171,490	382750	£211,260
Contingency 5%	£93,485	123,138	£29,653
Development Fees 4%	£74,788	98,511	£23,723
Total all on costs	£339,763	£604,399	£264,636
Total Scheme Cost	£2,209,458	3,067,167	£857,709

41. On costs have increased due to an additional £70,000 being added for site security costs that were incurred, post GW2 approval, due to illegal occupation issues across the council's portfolio of temporary accommodation properties awaiting redevelopment. £41,209 allocated to decommissioning works to prevent further squatters. Other cost movement is due to reconciliation of anticipated on costs and actual expenditure

42. The table below shows the revised spend profile:

Costs	Previous Year's	2022/23	2023/24	Total
Acquisition				0.00
Works	£60,962	£1,919,528	£482,278	£2,462,768
Oncost	£228,608	£228,622	£147,168	£604,399
Total	£289,570	£2,148,151	£629,446	£3,067,167

Investment Implications (Housing Contracts only)

43. Not applicable.

Legal Implications

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

Consultation

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

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

Other implications or issues

47. No other implications or issues.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance (H&M23/009)

42. This report seeks the formalisation of the prior approval from the Strategic Director of Housing and Modernisation for the Temporary Accommodation Contract 3, refurbishment/conversion contract with Niblock (Builders) Limited to vary the contract sum by £593,073 to £2,462,768 for the reasons outlined in the report.

43. The report also seeks approval for the additional contingency of £29,653 and additional on costs of £481,261 resulting in a total revised scheme cost of £3,067,167. The financial implications sections details how these costs will be funded.

44. 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

45. This report seeks approval from the Strategic Director of Housing to formalise their prior approval to vary the Temporary Accommodation Contract 3, refurbishment/conversion contract with Niblock (Builders)

Limited for a sum of £593,073.00 making the total contract sum £2,462,765.00.

46. The Strategic Director of housing notes the reason for the variation is detailed in paragraphs 11 to 12, the risks are detailed in paragraph 14, 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 36, and there are NO additional social commitments as part of this variation

Assistant Chief Executive - Governance and Assurance

47. 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 9, this decision was considered by the Strategic Director for approval at DCRB in July 2022, but the report was not submitted for signature.
48. 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 11 and 12, 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.
49. CSO 2.3 requires that no steps are taken to implement a variation unless the expenditure has been approved. Paragraphs 42-44 confirm the financial implications relating to this variation.

Director of Exchequer (for housing contracts only)

50. Not applicable.

Director of Education (for schools contracts only)

51. 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
None
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
Title of document Gateway 2 Works Contract for the New Homes Delivery Programme – Temporary Accommodation Contract 3 https://moderngov.southwark.gov.uk/documents/s101290/GW2%20-%20Temporary%20Accmmodation%20Refurbishment%20contract%203%20-%20Open.pdf	Southwark Construction, 160 Tooley Street	Lorraine Roach – Development Manager Lorraine.Roach@southwark.gov.uk

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 and Governance	Yes	Yes	
Head of Procurement	Yes	Yes	
Assistant Chief Executive – Governance and Assurance	Yes	Yes	
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	

