

## **EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** Council Housebuilding Cabinet **Date:** Tuesday, 19 January 2016  
Committee

**Place:** Council Chamber, Civic Offices, **Time:** 7.00 - 9.50 pm  
High Street, Epping

**Members Present:** D Stallan (Chairman), W Breare-Hall, S Stavrou, A Lion and J Philip

**Other Councillors:** S Neville, J H Whitehouse and J M Whitehouse

**Apologies:** R Bassett and G Waller

**Officers Present:** A Hall (Director of Communities), P Pledger (Assistant Director (Housing Property)) and J Leither (Democratic Services Officer)

**Also in attendance:** I Collins (Pellings LLP) and K Harris (East Thames Group)

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### **22. SUBSTITUTE MEMBERS**

The Cabinet Committee noted that Councillor J Philip substituted for Councillor R Bassett and Councillor A Lion for Councillor G Waller.

### **23. DECLARATIONS OF INTEREST**

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

### **24. MINUTES**

**Resolved:**

That the minutes of the meeting held on 27 July 2015 be taken as read and signed by the Chairman as a correct record.

### **25. CHANGE OF ORDER**

The Chairman proposed to the Cabinet Committee that due to the sensitive nature of Agenda Item 6, Council House-building Programme (Phase 2) – Acceptance of Tender and Agenda Item 8, Council House-building Programme – Progress Report, these two items should be moved to the end of the Agenda so they can be discussed in private session.

**Resolved:**

(1) That Agenda Item 6, Council House-building Programme (Phase 2) – Acceptance of Tender be moved to the end of the Agenda where part of this report would be heard in private session; and

(2) That Agenda Item 8, Council House-building Programme – Progress Report be moved to the end of the Agenda after Agenda Item 6, where part of this report would be heard in private session.

## **26. COUNCIL HOUSE-BUILDING PROGRAMME - SITES UNSUITABLE FOR DEVELOPMENT**

The Assistant Director (Housing Property & Development) presented a report to the Cabinet Committee. He advised that the sites at Springfield (Site B), Epping; Langley Meadow, Loughton and Loughton Way, Buckhurst Hill had been identified as being undevelopable, either because they did not or are not likely to receive planning permission or they are not financially viable for the Council to develop for the reasons as set out below.

### **Springfield (Site B), Epping**

The site at Springfield (Site B) in Epping has 15 x garages, of which seven (46.6%) are vacant. This site was approved by the Cabinet Committee in November 2014 to seek planning permission to provide 2 x 1-bed bungalows. At the Area Planning Sub-Committee East it was felt that this development, if constructed in conjunction with other sites in the vicinity, would present too great a parking stress on the surrounding streets.

As there were a high percentage of vacant garages and the likelihood that there were a number of others not used for parking it was recommended that the garages be demolished, the site be re-surfaced and the land marked out to leave the site as open car parking for local residents with a residents' parking scheme.

### **Langley Meadow (Site A), Loughton**

The site at Langley Meadow (Site A), Loughton which was currently laid out as amenity space, was approved by the Cabinet Committee in November 2014 to seek planning permission for 2 x 1-bed flats. However, during Pre-app discussions with the Planning Officers the Council's Arboriculturist was consulted and it was felt the development would cause harm to the existing tree on the site and as such the development could not be supported.

This site is laid out as grassed amenity space with trees. Whilst there was a perceived need for parking in the local vicinity, the Cabinet Committee had already agreed to retain the parking area at the opposite end of the block as open parking. Therefore, it was recommended that this space be retained as open amenity land.

### **Loughton Way, Buckhurst Hill**

The site at Loughton Way, Buckhurst Hill has 24 x garages, of which nine (37.5%) are vacant, was approved by the Cabinet Committee in October 2014 to seek planning permission to provide 4 x 3-bed houses. However, during Pre-app discussions with the Planning Officers and following a detailed topographical site investigation, it was felt the unconventional design and more particularly the changes in level between the adjacent houses and the ground level to the new houses would present on-going structural maintenance issues associated with the retaining structures, which would bring into question the long term viability of the development.

As there were a high percentage of vacant garages, and a likelihood that there were a number of other garages not used for parking, it was recommended that the garages be demolished, the site be re-surfaced and the land marked out to leave the

site as open car parking for local residents with a residents' parking scheme. This would assist the parking stresses on the nearby development in Kirby Close.

**Decision:**

- (1) That the garages at Springfields (Site B), Epping be demolished and the hardstandings be re-surfaced and marked out to leave the site as open car parking for local residents and a residents' parking scheme introduced;
- (2) That the land at Langley Meadow (Site A), Loughton be retained by the Council as open amenity land;
- (3) That the garages at Loughton Way, Buckhurst Hill be demolished and the hardstandings be re-surfaced and marked out to leave the site as open car parking for local residents, with a residents' parking scheme introduced; and
- (4) That all costs associated with the demolition, resurfacing, retaining walls, street lights and residents parking scheme be funded by the Off Street Parking Programme.

**Reasons for Decision:**

The Cabinet Committee is required to decide on the future use of garage sites unsuitable for development in line with the Council's Policy.

**Other Options Considered and Rejected:**

To adopt any other of the options within the existing Policy on the future use of undevelopable sites, as set out in the body of the report.

**27. COUNCIL HOUSE-BUILDING PROGRAMME - FINANCIAL POSITION**

The Assistant Director (Housing Property & Development) presented a report to the Cabinet Committee. He advised that one of the Cabinet Committee's Terms of Reference was to monitor expenditure on the Housing Capital Programme Budget for the Council Housebuilding Programme, ensuring the use (within the required deadlines) of the capital receipts made available through the Council's Agreement with the Department of Communities and Local Government (DCLG) allowing the use of additional "Replacement Right to Buy (RTB) Receipts" received as a result of the Government's increase in the maximum RTB Discount to be spent on housebuilding.

The Assistant Director advised that the schedule set out at Agenda Item 7, Appendix 1 was the current position as at 4 January 2016 with regard to the Right to Buy Receipts.

Appendix 1 (Agenda Item 7) captured the total amount of Replacement Right To Buy Receipts received and available for use for "One-for-One Replacement" on the Council's Housebuilding Programme, as captured on the Pooling Return to the DCLG, and when it was required to be spent. It also captured the actual expenditure to date and compared that to the projected future planned expenditure profile.

Appendix 2 (Agenda Item 7) set out the amount and use of financial contributions available to the Council's Housebuilding Programme from Section 106 Agreements, in lieu of the provision of on-site affordable housing on private development sites, and other sources of funding (e.g. sales of HRA land and non-RTB property, and external funding).

Appendix 3 (Agenda Item 7) set out the expenditure profile. This had been profiled to reflect the detailed programme that had been included elsewhere in the Agenda, which discussed the need to accelerate the house-building programme.

Appendix 4 (agenda Item 7) set out the financial modelling summary of all sites agreed by the Cabinet Committee by phase incorporating the unit mixes and numbers, updated costs and subsidy requirements.

This information had been captured and presented for monitoring purposes. However, it was noted that due to delays on the construction of Phase 1, delays in securing planning permission on Phase 2 and delays in completing legal agreements for the Barnfield S106 development, coupled with a higher than expected rate of RTB's there will be an underspend of around £2m in Quarter 4 of 2016/17. However, this relied on Broadway Construction Ltd delivering the Phase 1 construction works by July 2016, which was their own projected completion date.

As previously agreed by the Cabinet Committee, and to avoid giving any 1-4-1 receipts to the Government that the Council had accumulated from RTB sales, it was noted that it would now be necessary to purchase street properties on the open market to utilise this underspend.

**Decision:**

- (1) That the current financial position be noted, in respect of:
  - (a) The amount of additional "Replacement Right to Buy (RTB) Receipts" for utilisation under the Government's "one-for-one replacement" scheme that has been received; when it is required to be spent; the actual expenditure to date; and the future planned expenditure profile (Appendix 1);
  - (b) The amount and use of financial contributions available to the Council's Housebuilding Programme from Section 106 Agreements, in lieu of the provision of on-site affordable housing on private development sites, and other sources of funding (e.g. sales of HRA land and non-RTB property, and external funding) (Appendix 2);
  - (c) The expenditure profile that reflects the house-building programme (Appendix 3); and
  - (d) A Financial Modelling summary of all sites agreed by the Cabinet Committee by phase incorporating the unit mixes and numbers, updated costs and subsidy requirements (Appendix 4).
- (2) That it be noted, to avoid passing 1-4-1 RTB Receipts to the DCLG, the Council will need to spend around £2m by the end of Quarter 4 of 2016/17 on the purchase of street properties.

**Reasons for Decision:**

The Council's Housebuilding Programme is a high profile, high cost activity. It is therefore essential to ensure that budgets, costs and expenditure are properly monitored, to enable corrective action to be taken at the earliest opportunity when necessary.

**Other Options Considered and Rejected:**

Not to have regular Financial Reports presented to the Cabinet Committee.

**28. COUNCIL HOUSE-BUILDING PROGRAMME (PHASE 3) - PROCUREMENT OF WORKS CONTRACTOR**

The Assistant Director (Housing, Property & Development) presented a report to the Cabinet Committee. He advised that there was a lack of interest from larger contractors on the East Thames Framework to undertake Phase 3 of the Council's house-building programme as a whole, due to the complications and difficulties managing small dispersed sites. It was therefore, necessary to look at alternative procurement methods. Soft market testing suggested that a better approach would be to let the works through a mixture of smaller contracts using different contract types.

The Assistant Director reported that Pellings LLP had undertaken a soft market test with other contractors outside of the East Thames Framework, some of whom were local small contractors, to gauge their interest or otherwise in tendering for the 8 sites that make up Phase 3. The feedback from this exercise had resulted in a mixed response as detailed below:

- some were interested in a design and build approach only;
- some in a fully designed approach;
- some if the tender was based on a two stage approach (initial enquiry and then negotiated pricing);
- some were interested in only a small number of units; and
- from some, there was no interest at all.

One common theme was that they would not be interested in the whole package due to the geographical remoteness of each site.

From the outcome of the soft market testing it was recommended that the Council broke down the 8 sites making up Phase 3 into 7 separate contracts with a mixture of Design and Build contracts and traditional fully designed contracts, all in accordance with the Council's Contract Standing Orders. Although not the reason for taking this approach, it was noted that this would mean that each contract would be below the OJEU Thresholds and it would also reflect the varying preferences of the contractors approached through the soft market testing. The suggested contracts were as follows:

- Contract A: Springfield Site C and Centre Avenue, Epping - 8no. units using design and build.
- Contract B: Stewards Green Road, Epping - 4no. units using a traditional procurement.
- Contract C: Parklands. Coopersale - 4no. units using design and build.
- Contract D: Queens Road, North Weald - 12no. units using design and build.
- Contract E: Bluemens End, North Weald - 4no. units using design and build.
- Contract F: Centre Drive, Epping - 1no. unit using a traditional procurement.
- Contract G: London Road, Stapleford Abbots - 1no. unit using a traditional procurement.

It was noted that by having 7 separate contracts there would be additional costs associated with supervising 7 contracts instead of 1 contract. In addition, there would be additional up-front costs associated with fully designing the schemes that were to be let using a traditional procurement. These additional costs were not available at

the meeting but as soon as they were available they would be circulated to members.

It was noted that, in terms of the risks associated with adopting this approach, although there was more likelihood of something going wrong, the impact of anything going wrong would be considerably lower.

**Decision:**

(1) That, for Phase 3 of the Council Housebuilding Programme the Council adopts an alternative procurement strategy and breaks down the 8 sites making up Phase 3 into 7 separate contracts, with a mixture of Design and Build contracts and traditional fully-designed contracts, and tenders them in accordance with the Council's Contract Standing Orders;

(2) That the additional costs associated with the design, management and supervision of 7 separate contracts be met from the existing HRA Capital Programme budget for house-building; and

(3) That, if required a separate Portfolio Holder Decision be agreed when the costs associated with the Consultant's design, management and supervision of the 7 separate contracts were available.

**Reasons for Decision:**

The Cabinet Committee had already agreed a Procurement Strategy for its house-building programme, which made use of the East Thames Group EU-compliant Framework of Contractors. However, based on lessons learnt from Phase 1, and through discussions held with a number of Contractors, this report explores a number of other options.

**Other Options Considered and Rejected:**

To undertake a separate EU procurement exercise, specific to just the Council's House-building Programme. This would be time consuming, costly and would not guarantee interest from any other Contractors.

**29. COUNCIL HOUSE-BUILDING PROGRAMME - OFFICER RESOURCES**

The Director of Communities presented a report to the Cabinet Committee. He advised that the responsibility for the housebuilding programme rested with the Assistant Director (Housing Property and Development) and as a result of the Cabinet Committee's decision to extend and accelerate the Council Housebuilding Programme, from an initial 6-phase programme of 120 homes to at least a 10-phase programme of around 315 homes, with a plan to commence each phase every 3 months, there were now insufficient staffing resources to effectively manage and deliver the programme.

The Cabinet Committee noted the following current priorities for the programme:

- (a) To complete the 23 new homes under Phase 1;
- (b) To start on site with Phase 2 of the programme (51 homes at Burton Road);
- (c) To implement a Procurement Strategy for Phase 3 of the Programme (34 homes), reported earlier in the Agenda, to enable a tendering process to be undertaken and a start on site in August 2016;

- (d) To seek/obtain planning permission for all the sites in Phase 4 of the programme;
- (e) To complete the remaining feasibility studies for future phases and to seek planning permission accordingly;
- (f) To overcome and resolve the site-specific legal issues relating to each site, to enable the proposed developments to be undertaken;
- (g) To enter into a contract for the purchase of the 8 affordable rented homes at the private development in Barnfield, Roydon from the developer, and to then oversee the works, in order to enable additional expenditure of 141 capital receipts;
- (h) To source and purchase 8-10 properties from the open market to enable further expenditure of 1-4-1 receipts; and
- (i) To monitor and ensure that the required amount of 141 receipts are spent within the 3-year deadline, to ensure that no receipts or (punitive) interest is paid to the DCLG.

It was noted that the workload to date to deliver the housebuilding programme had been immense, which had been increased by the Cabinet Committee's decision to extend and accelerate the programme. Although a lot of the work had been undertaken by the Development Agent and their consultants (Pellings LLP), through the Development Agreement with the Council, the Assistant Housing Assets Manager and the Senior Housing Development Officer have had to spend significantly more than 50% of their time on the programme – leaving them with insufficient time to meet their other important responsibilities, the workload for which was also increasing.

This urgent need had recently been considered by Management Board, who were of the view that two new posts were needed to be created, as soon as possible, as follows:

- A Housing Development Manager post, reporting to the Assistant Director, with responsibility for managing the delivering of the housebuilding programme – with high-level strategic support provided by the Assistant Director. Subject to job evaluation, this was expected to be at Grade 10 - at a (mid-point) salary cost of £42,158 per annum (plus on-costs); and
- A Housing Development Officer post, reporting to the Assistant Housing Assets Manager (Special Projects), to undertake day-to-day project management of developments. Subject to job evaluation, this was expected to be at Grade 6 – at a (mid-point) salary cost of £24,577 per annum (plus on-costs).

It was noted that since these two new posts would be dedicated to the housebuilding programme, they could be funded from the HRA Capital Programme.

Whilst recognising the need for additional staffing resources, the Cabinet Committee were concerned that the Council Housebuilding Programme was now into its third year and that there was not therefore a need to take on two new permanent members of staff. However, two new members of staff on three-year fixed-term contracts was supported. The Cabinet Committee agreed that if the fixed-term

contracts did not attract the quality of candidates required, permanent members of staff could be appointed, subject to the approval of the Housing Portfolio Holder.

**Decision:**

(1) That two new three-year fixed-term posts of Housing Development Manager and Housing Development Officer be created as soon as possible, following job evaluation to determine appropriate grades; and

(2) That the costs of the new posts be funded from the HRA Capital Programme budget for the Council Housebuilding Programme.

**Reasons for Decision:**

The Council's housebuilding programme has been extended and accelerated, and the current staffing resources are insufficient.

**Other Options Considered and Rejected:**

To create more or less new posts.

**30. COUNCIL HOUSE-BUILDING PROGRAMME - RISK REGISTER**

The Assistant Director (Housing Property & Development) presented a report to the Cabinet Committee. He stated that Pellings LLP, who were the Employers Agent, appointed by the Council's Development Agent, East Thames, produced and kept up to date a project wide Risk Register associated with the Council's Housebuilding Programme.

The Assistant Director advised that as the Council's Housebuilding Programme was a major undertaking, involving significant amounts of money and risks, it was essential that the Officer Project Team and the Cabinet Committee record, monitor and mitigate those risks.

Members expressed concerns regarding the amount of risks on the register that were highlighted in red, in particular from 2013, and asked if this could be explained.

The Agent advised that the Risk Register was used as a weekly control document and site specific surveys were being included to mitigate these risks as part of the action plan. He advised that they would look at the risk scoring, which may need to be re-assessed, and would report back at the next meeting.

**Decision:**

(1) That the Programme-wide Risk Register for the Council House-building Programme be noted; and

(2) That the risks be re-assessed and included in the Risk Register for the next meeting.

**Reasons for Decision:**

The Council's Housebuilding Programme is a major undertaking, involving significant amounts of money and risks, it is essential that the Officer Project Team and the Cabinet Committee record, monitor and mitigate those risks.

**Other Options Considered and Rejected:**

(a) Not to have a Risk Register – but it would not be appropriate to contemplate such an option; and

(b) To request amendments to the format or content of the Programme-wide Risk Register.

**31. ANY OTHER BUSINESS**

The Cabinet Committee noted that there was no other urgent business for consideration.

**32. EXCLUSION OF PUBLIC AND PRESS****Resolved:**

That the public and press be excluded from the meeting for the items of business set out below on the grounds that they would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A of the Local Government Act 1972:

<b><u>Agenda Item No.</u></b>	<b><u>Subject</u></b>	<b><u>Exempt Information Paragraph Number</u></b>
6	Acceptance of Tender	3, 5
8	Progress Report	3
14	Restricted Minutes 27 July 2015	3, 5

**33. MINUTES****Resolved:**

That the restricted minutes of the meeting held on 27 July 2015 be taken as read and signed by the Chairman as a correct record.

**34. COUNCIL HOUSE-BUILDING PROGRAMME - PROGRESS REPORT**

The Assistant Director (Housing Property & Development) presented a report to the Cabinet Committee on the current position of Phase 1 of the Housebuilding Programme. He advised that, at the last meeting of the Cabinet Committee, Members had been made aware of some delays to Phase 1 of the Council Housebuilding Programme.

The Assistant Director stated that the Contractor, Broadway Construction Ltd, commenced works on site on 27 October 2014 with completion due on 13 November 2015. The agreed tender sum for the works was £3,245,143.62, with payments to date of £1,788,921.38 (51.62%). With fees and other pre-construction costs, the total cost of delivery was estimated to be around £3,769,170.

The contractor had not maintained the delivery programme and on 13 November 2015, a Certificate of Non-Completion was served on Broadway Construction Ltd,

which had led to Liquidated & Ascertained Damages (LAD's) at a weekly rate of around £10,200 per week being deducted from future valuations in accordance with the terms of the contract. These related to the loss of rent and the increase in fees associated with the late delivery of the new homes.

On 15 December 2015 the Council received from Broadway Construction Ltd a claim for an extension of time and loss and expense. Copies were also sent to Pellings LLP, the Employers Agent appointed by East Thames to oversee the contract on the Council's behalf. The claim centred on the delays associated with executing the contract as a result of the contractor's inability to provide a Bond; (their) unforeseen additional work associated with the foundations needed to support the new homes; delays associated with design changes required to achieve adequate refuse storage facilities at Harveyfields; difficulties in achieving Building Regulations at Site 7 to facilitate adequate fire safety measures; and the presence of a water main running through the Red Cross site which required to be diverted.

Each aspect of the claim would be considered by Pellings LLP for entitlement, with the costs associated with any entitlement being calculated in accordance with the contract. The Council had 12 weeks to consider the merits or otherwise of each aspect of the claim.

Broadway Construction Ltd had indicated they were committed to completing the works and were projecting a completion date for Harveyfields around July 2016, with other sites being completed by the end of March 2016. Progress on site and the quality of the work was being closely monitored by East Thames and Pellings LLP.

**Resolved:**

That the decision of the Council Housebuilding Cabinet Committee be reported in the public session of this meeting.

**35. COUNCIL HOUSE-BUILDING PROGRAMME (PHASE 2) - ACCEPTANCE OF TENDER**

The Assistant Director (Housing Property & Development) presented a report to the Cabinet Committee regarding the Acceptance of Tender.

The Assistant Director advised there was a separate report on the agenda that confirmed tenders were received from 5 out of 6 tenderers for the construction of 51 new affordable homes at Burton Road, Loughton. These tenders had been analysed by Pellings LLP, the Employers Agent acting on behalf of the Council's Development Agent East Thames, who had recommended that Mullalley & Co Ltd be awarded the contract for the adjusted tender sum of £9,847,179.00 based on a Design and Build contract with a contract period of 105 weeks.

Once appointed, it was proposed that Pellings LLP would enter into discussions with Mullalley & Co Ltd with a view to completing the works sooner and possibly sharing any savings in reduced preliminary costs.

Detailed financial checks had been carried out by East Thames prior to the tenders being issued. The Director of Resources had been consulted on the evaluation and results of the financial checks.

**Resolved:**

That the decision of the Council Housebuilding Cabinet Committee be reported in the public session of this meeting.

**36. INCLUSION OF PUBLIC AND PRESS**

**Resolved:**

That the public and press be invited back into the meeting.

**37. COUNCIL HOUSE-BUILDING PROGRAMME - PROGRESS REPORT**

The Assistant Director (Housing, Property & Development) presented a report to the Cabinet Committee advising of the current progress on Marden Close and Faversham Hall, Chigwell Row and Phases 1-5 of the programme.

Marden Close and Faversham Hall

This was the first of the Council's developments to be completed in December 2015, under the housebuilding programme providing 12 new 1-bedroom flats which have now been let to applicants on the Council's Housing Register.

Phase 1 – Waltham Abbey

This had been covered earlier in the agenda.

Phase 2 – Burton Road

Planning permission was achieved in September 2015 for 51 new affordable homes at Burton Road, Loughton. Tenders were issued to 6 contractors from the East Thames' approved list. With one contractor withdrawing, 5 tenders were received and opened by the Housing Portfolio Holder on 17 November 2015 in accordance with Contract Standing Orders.

Interviews were held on 17 December 2015 with each of the two lowest tenderers to explore any qualifications as part of the evaluation process. In attendance were Pellings LLP, Council Officers as well as the Housing Portfolio Holder.

It was anticipated that the successful Contractor would take possession of the site in February 2016 with work commencing on site around June 2016 once the planning conditions were discharged and the detailed designs prepared and approved. The contract period set out in the contract was 20 months.

Phase 3 – Epping, Coopersale and North Weald

Planning permission has been achieved for eight sites making up Phase 3 of the Council's house-building programme, which will deliver 34 new affordable homes at an estimated cost of £6,757,650 inclusive of fees.

It was anticipated that work would commence on site in August 2016 and completed around 20 months later in March 2018.

Phase 4 – Loughton

The Cabinet Committee have agreed feasibility studies at 13 sites across Loughton, which will deliver 40 new affordable homes made up of a mix of bungalows, houses and flats. Pre-app discussions have taken place with Planning Officers and applications have now been registered for each of the sites. If approved, the estimated cost of delivering each of the new affordable homes making up Phase 4 would be £9,426,686..

It was anticipated that work would commence on site in April 2017 and completed around 20 months later in November 2018.

Phase 5 – Buckhurst Hill & Ongar

The Cabinet Committee have agreed feasibility studies at 10 sites across Buckhurst Hill and Ongar, which would deliver 33 new affordable homes made up of a mix of bungalows, houses and flats. Pre-app discussions have taken place with Planning Officers and applications were being drawn up by Pellings LLP for each of the sites. If approved, the estimated cost of delivering each of the new affordable homes making up Phase 5 was £6,464,028.

It was anticipated work would commence on site in October 2017 and completed around 20 months later in May 2019.

The purchase of 11 new affordable homes at Barnfield, Roydon (Section 106 Development)

The Cabinet Committee have now met on 12 occasions in total. The outcomes from each meeting have set in place the policies and strategy that have shaped the house-building programme. This year, the main Policy challenge had been around the need to accelerate the house-building programme to keep up with the rate of Council-house RTB sales, therefore avoiding returning 1-4-1 receipts to the Government. A range of contingency measures in place include:

- (a) to purchase individual vacant properties for sale on the open market;
- (b) to purchase affordable rented housing that is required to be provided by developers in accordance with Section 106 Agreements; and
- (c) That subject to planning permission, the Council buys the affordable rented housing provided by a private developer following the sale if the Council's former Nursery in Pyrles Lane.

In order to avoid returning unspent 1-4-1 receipts to the Government, the Cabinet Committee have agreed to the purchase of new affordable homes on Section 106 developments.

Negotiations have taken place with Linden Homes, who have an Option Agreement on a site at Barnfield, Roydon that has planning permission for 24 new homes at Barnfield, Roydon, of which 11 are for affordable housing. The affordable housing is for 11 new homes, of which 8 are for affordable rent and 3 are for shared ownership.

A joint bid was put to Linden Homes between the Council and B3Living, who are one of the Council's Preferred Housing Association Partners, with the Council purchasing the 8 x affordable rented homes and B3Living purchasing the 3 x shared ownership homes. The Cabinet, at its meeting on 3 December 2015, agreed a bid of £1.464m for the 8 affordable rented homes, funded from a combination of 1-4-1 receipts and the existing HRA Capital resources.

**Decision:**

That the Annual Progress Report on Council house-building be agreed and presented to the Cabinet.

**Reasons for Decision:**

The Cabinet Committee is required to monitor progress and expenditure in relation to the Council House-building Programme and report to the Cabinet on an annual basis, as set out in its Terms of Reference.

**Other Options Considered and Rejected:**

This report is on the progress made over the last 12-months and is for noting purposes only. There are no other options for action.

**38. COUNCIL HOUSE-BUILDING PROGRAMME (PHASE 2) - ACCEPTANCE OF TENDER**

The Assistant Director (Housing Property & Development) presented a report to the Cabinet Committee. He advised that following a tender exercise for Phase 2 of the Council's house-building programme at Burton Road, Loughton six contractors had been invited to tender to construct 51 new affordable homes, based on a Design and Build contract. Out of the six contractors five tenders had been received and were registered as below:

1.	United Living (South) Limited	£9,499,651
2.	Mulalley & Co Limited	£9,740,241
3.	Durkan Limited	£10,264,909
4.	Galliford Try Partnership Limited	£11,201,432
5.	Higgins Construction Plc	£11,927,356
6.	Hill Partnership Limited	Did not Tender

It had been made clear in the tender documents that the Council would not be obliged to accept the lowest tender.

Checks had been carried out by Pellings LLP on all of the tenders received, and in view of the significant price difference between the second lowest and the three other tenders, only the two lowest tenders had been analysed in detail.

The tenders submitted by United Living (South) Ltd and Mulalley & Co Ltd, as lowest and second lowest respectively, included a number of qualifications and pricing omissions, which had been discussed during post-tender interviews co-ordinated by Pellings LLP. Neither United Living Ltd nor Mullalley & Co Ltd had been prepared to lift these omissions and qualifications without a pricing review; therefore each had been asked to review these and submit a revised unqualified tender sum. These were as follows:

Tenderer	Original Tender Sum	Adjusted Tender Sum	Variation
United Living (South) Ltd	£9,499,651	£9,764,651	+£265,000
Mulalley & Co Ltd	£9,740,241	£9,847,179	+£106,989

This had resulted in the difference between the lowest and second lowest now being just £82,528 (0.84%).

United Living Ltd had provided costs as requested, albeit by including provisional sums. However they had qualified this further and included in their tender clarifications that they *“have only been able to price based on the information provided with the tender. This information was in some cases not yet complete and required further development before we are able to provide a complete / competitive price.”* This represented a financial significant risk, as the prices submitted could increase to a point where they exceeded that of the second lowest tender.

Mullalley & Co Ltd on the other hand had complied with the request to provide an unqualified tender, again through the use of provisional sums, with the exception of pricing for the treatment or removal of any contaminated ground found on the site. Based on soil surveys undertaken prior to tender where no contamination had been found, this represented a low risk according to Pellings LLP.

The pre-tender estimate was £8,125,000, which was based on Quarter 2 2015 rates without any inflationary uplift. The lowest tender as originally received was around 16% above the estimated cost and it was the view of Pellings LLP that this was due to a number of inflationary pressures affecting the construction sector.

The contract had been tendered based on a 20 month contract period (87 weeks). United Living had based their price on this contract period. However, Mullalley & Co Ltd had based their tender on a longer contract period of 24 months (105 weeks), with a completion date in March 2018, but had indicated that it may be possible to complete the works sooner. A longer contract period allowed Mullalley & Co Ltd more time to put in place the resources needed to complete the works and reduced their risk of incurring any liquidated and ascertained damages should the contract period not be met. This did however mean a loss would result to the Council of around £130,000 in rent for this extended period.

#### **Decision:**

That Mullalley & Co Ltd be awarded the contract for the construction of 51 new affordable homes at Burton Road, Loughton, which forms Phase 2 of the Council's House-building Programme, for the adjusted Tender Sum of £9,847,179.00, being the second lowest tender received.

#### **Reasons for Decision:**

The Council House-building Cabinet Committee has agreed to tender the works using the East Thames Framework Agreement, based on a Design and Build Contract. Therefore, this tender exercise satisfies that decision and has been undertaken in line with the Council's Development Strategy and the Council's Contract Standing Orders.

#### **Other Options Considered and Rejected:**

(1) To appoint United Living Ltd, being the lowest tender received in the adjusted sum of £9,764,651.00. However, there is a risk that this tender sum will increase to the point it will exceed the second lowest tender once all of the qualifications included by United Living Ltd are costed during the contract period.

(2) To appoint any of the other Contractors that submitted a tender

(3) Not to undertake the works. However, this would not deliver any new affordable homes for applicants on the Council's waiting list but would also jeopardise the Council's 1-4-1 receipts and £500,000 of HCA grant.

**CHAIRMAN**