

BIRMINGHAM CITY COUNCIL

PUBLIC

Report to:	CABINET	
Report of:	Director of Planning and Regeneration and the Acting Strategic Director of Place	
Date of Decision:	17th November 2015	
SUBJECT:	KEEPING BIRMINGHAM BUILDING: BIRMINGHAM MUNICIPAL HOUSING TRUST (BMHT) ABBEY FIELDS ERDINGTON PHASES 2&3 – FULL BUSINESS CASE & CONTRACT AWARD	
Key Decision: Yes	Relevant Forward Plan Ref: 000553/2015.	
If not in the Forward Plan: (please "X" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>	
Relevant Cabinet Member(s) or Relevant Executive Member for Local Services:	Councillor Tahir Ali, Cabinet Member for Development, Transport and the Economy, Councillor Stewart Stacey, Cabinet Member for Commissioning, Contracting and Improvement and Councillor John Cotton, Cabinet Member for Neighbourhood Management and Homes	
Relevant O&S Chairmen:	Councillor Victoria Quinn, Birmingham Economy, Skills and Sustainability Committee, Councillor Waseem Zaffar, Corporate Resources Committee, Councillor Zafar Iqbal, Neighbourhood and Community Services Committee	
Wards affected:	Erdington	

1. Purpose of report:

- 1.1 To seek approval to the Business Case and contract award for the construction of 110 new homes at Abbey Fields, part of the redevelopment of the Lyndhurst Estate, including the provision of new neighbourhood park.
- 1.2 To seek approval for the completion of a series of land appropriations, between the General Fund and the Housing Revenue Account ; part of the remaining land assembly programme, to facilitate the development of new homes, also providing a new park; public open space and play facilities.
- 1.3 To seek approval to additional borrowing of £8.75m to be funded through the Housing Revenue Account.

2. Decision(s) recommended:

That Cabinet:

- 2.1 Approves the Full Business Case (Appendix 1) to build 85 new homes for rent, 25 new homes for sales and the provision of a new neighbourhood park at Abbey Fields, at a capital cost of £15.22m at Appendix 1 of the report.

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Decisions Recommended (cont.)

- 2.2 Authorises additional borrowing through the HRA of up to £8.75m to fund the construction of 25 homes for sale on this site and to accelerate the build of the homes for rent.
- 2.3 Approves the registration of the Council as a Help to Buy agent with the Homes and Communities Agency in order to assist aspiring homeowners to purchase new homes direct from the council.
- 2.4 Authorises the Director of Planning and Regeneration to submit and process all necessary Highway Closure applications and notices required to facilitate the development of the site as set out in Appendix 2 and to enter into any appropriate agreements or alternative arrangements to facilitate alterations to highway access to the site.
- 2.5 Authorises the appropriation of 0.65ha / 1.62 acres of General Fund land held under the Education Act, into the Housing Revenue Account to be held for housing purposes under the Housing Act 1985; and 0.42 ha / 1.04 acres of land held with the Housing Revenue Account for housing purposes under the Housing Act 1985 to the General Fund, for the purposes of use as Public Open Space, as set out in the attached plan at Appendix 3. These appropriations are subject to the confirmation of approval of the application for the change of use and disposal of the former school playing field contained within the former Lindsworth School North under Section 77 of the Schools Standards and Framework Act 1998, this approval being made by the Secretary of State for Education. Maintenance responsibility for all land appropriated will transfer to the receiving service within the Council.
- 2.6 Approves the appropriation of 0.50ha / 1.23 acres of land from the People Directorate; currently held under the Education Act, to the Place Directorate, for the purposes of Public Open Space. This land being held, and remaining, within the General Fund; and subject to the confirmation of the Section 77 approval of the Schools Standards and Framework Act 1998, in respect of the school playing field of the former Lindsworth School North, as set out at 2.5.
- 2.7 Approves the ring fencing of the General Fund revenue benefit generated by the appropriation of the land identified as the former Lindsworth School North in Appendix 3, which is to be appropriated to the HRA from the People Directorate, to be utilised for the purpose of providing additional pupil places.
- 2.8 Delegates to the Director of Property the power to amend or vary the development boundaries of any of the sites.
- 2.9 Authorises the Director of Planning and Regeneration to seek consent under Section 174 of the Localism Act 2011 to exclude the new properties for rent delivered under this development agreement from Right to Buy pooling requirements, to ensure that any capital receipts generated from the sale of homes under the Right to Buy are retained by the Council

- 2.10 Authorises the Director of Planning and Regeneration to receive the result of any consultations regarding the loss of Public Open Space notices in accordance with Section 123(2A) of the Local Government Act 1972 and to decide whether to proceed with the relevant disposal or appropriation under S122 (2A) in consultation with Cabinet Member for Development, Transport and the Economy;
- 2.11 Approves further revenue expenditure of £154,000 commuted for 15 years to cover repairs, capital replacement and grounds maintenance relating to the public open space and play facilities at Abbey Fields, Erdington.
- 2.12 Authorises the Director of Legal and Democratic Services to negotiate, execute and complete all necessary documentation to give effect to the above recommendations including the execution and completion all appropriate way leaves and easements and highway agreements required for the development of the land identified within the planned development at Appendix 1.

3. Consultation

3.1 Internal

- 3.1.1 The Deputy Leader has been consulted regarding the contents of this report and supports the proposals coming forward for an Executive Decision.
- 3.1.2 The Service Director Housing Transformation has been consulted in the preparation of this report and supports the proposals coming forward for an Executive Decision.
- 3.1.3 Officers in the Economy Directorate (Legal and Democratic Services, Procurement, City Finance, Birmingham Property Services and Housing Development) and the Place Directorate (Parks, and Highways), and People (Education and Skills Infrastructure) have been involved in the preparation of this report.
- 3.1.4 Erdington Ward Councillors and the Executive Member for the District have been consulted in the preparation of this report and support the proposals coming forward for an Executive Decision. The Cabinet Member for Children's Services has been consulted regarding the contents of this report

3.2 External

- 3.2.1 Extensive consultations have taken place with local residents regarding the regeneration of the estate over several years. Residents have been consulted as part of the statutory planning application process and their comments have been taken into account in the determination of the planning application.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

- 4.1.1 The development of new homes for a growing city is a key objective of the Leader's Policy Statement 2015. The development of new affordable housing within the City is in accordance with the objectives of the Housing Revenue Account (HRA) Business Plan 2015+. The proposals also respond to the Leaders Policy Statement Implementation Priorities of:

- 4.1.2 A Fair City – to tackle inequality and deprivation, promote social cohesion across all communities in Birmingham, and ensure dignity, in particular for our elderly and safeguarding for children – by providing new affordable homes, apprenticeships and bursary programme placements.
- 4.1.3 A prosperous city – to lay the foundations for a prosperous City, built on an inclusive economy – by stimulating the construction industry through the Council’s housing building programme.
- 4.1.4 A democratic city – to involve local people and communities in the future of their local area and their Public Services – by consulting communities about proposals for new development and ensure that new homes meet local needs and localised targeting of training, education and employment initiatives to complement the house-building programme.
- 4.2 Birmingham Business Charter for Social Responsibility (BBC4SR)
- 4.2.1 The recommended contractor is a certified signatory to the BBC4SR and has produced an Action Plan with commitments proportionate to the value of this contract. The actions will be monitored and managed during the contract period.
- 4.2.2 The recommended contractor is to provide 10 apprentices as part of this contract
- 4.3 Financial Implications
- 4.3.1 The estimated total capital construction costs of the properties to be built for sale or held within the HRA will amount to £15.22m (including pre- and post- construction costs, together with marketing costs for the market sale units). This compares to the estimated cost of £11.400m that was previously approved by Cabinet in December 2014. The increase in cost is due mainly to the additional costs of constructing the market sale properties (£3.31m) and the higher than anticipated costs of the new park (£0.59m). The development will be funded from HRA revenue contributions (£6.10 m), 1-4-1 RTB receipts (£4.26m) and sales receipts (£4.86m).
- 4.3.2 The future running costs of the properties and areas of public realm retained within the HRA will be met from the ongoing rental income to be derived from the new build properties. This will result in an overall revenue surplus to the HRA over 30 years of £8.32m. The scheme will result in a minor budget pressure of £0.15m in 2016/17 which will be funded from the overall HRA. From 2017/18 the HRA is expected to break-even or make a surplus each year from the proposals in this report.
- 4.3.3 The full financial implications of the proposals for the 85 homes for rent and 25 homes for market sale are set out in the Full Business Case attached at Appendix 1 and are included within the HRA Business Plan and Budget for 2015/16 and subsequent years. These proposals will result in an in additional borrowing of £8.75m to fund the build of sale units, and to accelerate the build of units for rent. This additional borrowing will be paid from subsequent sales receipts and revenue contributions between 2016/17 and 2019/20. Whilst this will increase the HRA debt in the short term, the overall debt will continue to be within the HRA limit on indebtedness.

- 4.3.4 The financial viability of these proposals is based on the new social housing rent policy that was outlined by the Chancellor on 8/7/15 (i.e. that rents will be reduced by 1% per annum over the next 4 years from 2016/17 to 2019/20). The working assumption is that rents will then revert back to CPI+ 1% after 2019/20 (currently projected at 3% per year). However, should rents not increase at this rate, it is anticipated that cross-subsidy from the other HRA rents will be needed to ensure that the scheme breaks even.
- 4.3.5 Where new highway is required to enable these sites to be redeveloped to support the housing construction described in this report then such development costs will be met by the HRA. Appropriate permissions to construct highway will also be required. Opportunities will be explored to align any changes to the highway as a consequence of each new development to the Highways Management & Maintenance PFI (HMMPFI) programme of works to reduce costs for the delivery of either programme.
- 4.3.6 By law, any appropriation of land between the HRA and the General Fund results in a transfer of borrowing between the HRA and the General Fund equivalent to the open market value of the land appropriated. In addition, the total level of borrowing that can be incurred by the HRA is constrained to not exceed the cap imposed as a part of the HRA self-financing settlement, effective from 1 April 2012.
- 4.3.7 The total open market value of the appropriations proposed in this report from the HRA to the General Fund is estimated to be £0.57m and the equivalent value for appropriation from the General fund to the HRA is estimated to be £0.89m. This results in a net transfer of borrowing from the General Fund to the HRA of £0.32m.
- 4.3.8 The land which is the subject of the appropriations has been valued by Birmingham Property Services and is detailed below

Site		Area	Valuation
1	HRA to Place Directorate(GF)	0.17 hec /0.42 acres	£230,000
2	HRA to Place Directorate (GF)	0.25 hec /0.62 acres	£339,000
	Total Appropriations from HRA		£569,000
3	People Directorate (GF) to HRA	0.65 hec /1.62 acres	£890,000
	Total Appropriations to HRA		£890,000
4	People Directorate (GF) to Place Directorate (GF)	0.50 hec /1.23 acres	£675,000
	Total Appropriations wholly within GF		£675,000

- 4.3.9 These appropriations are the completion of a programme of appropriations required to complete the regeneration of the estate which commenced with approval by Cabinet on 26th July 2010 to the transfer of 3.8 acres (1.54 hectares) of General Fund land, valued at £2m which was appropriated to the HRA for housing purposes.

4.3.10 The revenue contribution generated by the appropriation of land between the General Fund and HRA in respect of the former Lindsworth School is proposed to be ring fenced to support the new build Starbank School Project, which will create 420 additional primary school places and 900 additional secondary school places.

4.3.11 It is intended that the development of the public open space and play facilities for this scheme will be delivered through the Landscape Practice Group and a provision of up to £590,000 including initial costs already incurred of £14,000 is included within these proposals.

4.4 Information Management

4.4.1 The nature of this contract is building-related and there are no significant information management issues to be addressed

4.5 Legal Implications

4.5.1 As the Housing Authority, the relevant legal powers relating to the discharge of the Council's statutory function to provide for its housing need are contained in section 9 of the Housing Act 1985. Section 174 of the Localism Act enables the Council to retain 100% of the receipts generated from the sale of the new rented homes subsequently sold under the Right to Buy.

4.5.2 The Council has powers to hold and appropriate land under Sections 120-122 of the Local Government Act, 1972. Under Section 122 of the Local Government Act 1972, the Council may appropriate for any purpose for which the Council is authorised by legislation to acquire land; and land which belongs to the Council and is no longer required for which it is held immediately before the appropriation.

4.5.3 The legal power to dispose of land held within the Housing Revenue Account is contained within Section 32 of the Housing Act 1985, General Consent A.

4.5.4. Section 122(A) requires that where land is existing public open space, notice of the change of use must be advertised prior to the appropriation taking place. Where land is to be appropriated from the HRA and to be used as open space/parks, this is to be held for planning purposes under section 226(1) (a) the Town and Country Planning Act 1990

4.5.5 The site of the former Lindsworth School North contains 4360sqm of designated school playing field; the appropriation of this land is subject to approval of Section 77 of the Schools Standards and Framework Act 1998 and Schedule 1 of the Academies Act 2010. Cabinet Approval to submission of these applications was secured on 30th July 2012.

4.6 Public Sector Equality Duty

- 4.6.1 There are currently 25,000 people on the Council's waiting list for affordable housing. Many of these people live in overcrowded conditions across the housing sector. Evidence from allocating properties previously developed under the BMHT banner has revealed the extent of this problem, many families being allocated from accommodation that was too small for their needs.
- 4.6.2 Through the BMHT programme, the Council delivers homes that reflect the strategic Housing Market Assessment for Birmingham with an emphasis on 2 bedroom houses and 4+ bedroom houses. Whilst there is a clear driver for family homes (and these make up the majority of the new development programme) the programme also looks to meet other needs, such as people without children and elderly residents who wish to down size from under-occupied homes.
- 4.6.3 The BMHT Delivery Plan for 2015-20 which includes this project, included a citywide Equality Impact Analysis and this agreed by Cabinet in December 2014. It includes areas where different cultural requirements will need to be reflected in the design of the homes provided. Feedback from previous schemes delivered has been utilised and these will be used in developing the schemes outlined within the BMHT Delivery Plan. New Property archetypes need careful consideration in terms of construction affordability and value for money and have now been refined into the BMHT standard house type catalogue. The Council's house building programme represents a unique opportunity to break the mould of repetitive market house types and meet the specific needs of its diverse population.

5. Relevant background/chronology of key events:

- 5.1 This report seeks approval to proposals to complete the regeneration of the Lyndhurst estate which is located to the North East of Birmingham around 3-4 miles from City Centre and to the North of the centre of Erdington.
- 5.2 An initial phase of development for 25 Houses (19 for rent and 6 for sale) was completed in 2014, and a subsequent phase of 116 homes (70 for sale and 46 for rent) is under way and due to be completed in early 2016. Following consultation in 2013, the estate has now been rebranded as Abbey Fields and the new development has proven to be a great success with the sales market of new homes proving to be extremely strong.
- 5.3 Phases 2 and 3 which are the subject of this report comprise 110 homes which consist of 85 properties for rent and 25 for sale; together with the community facilities they will consolidate the transformation of the estate.
- 5.4 The redevelopment has been the subject of a number of previous reports to Cabinet setting out the overall context of the regeneration of the estate, as well as including specific details of the delivery of the previously commenced phases as set out above. The most recent report in December 2014 set out the intended level of new house building to be undertaken as a part of phases 2 and 3 of the overall scheme, including confirmation of the proposed tenure mix.

- 5.5 Following the success of earlier construction of homes for sale on the estate, an opportunity has been identified to adopt an alternative delivery model, whereby the Council fully funds and takes the sales risk on the market sale properties to be delivered as a part of these phases of the redevelopment. This does not change the overall outcomes from the development, but increases the level of expenditure to be incurred by the Council in funding the overall development, with this increased expenditure more than offset by an increased level of capital receipts to be retained by the Council.
- 5.6 In order to allow purchasers of the homes from the Council access to financial assistance to fund their purchase of their home through the Government's Help to Buy scheme, it is necessary for the Council to register with the Homes and Communities Agency as a Help to Buy Agent. The costs of this registration are merely administrative, and activity as a Help to Buy Agent does not result in any additional costs to the Council.
- 5.7 Outline planning approval for the entirety of the development was secured in October 2010. This approval set the parameters for the development and identified where land use changes were required. The initial land appropriations to facilitate the early phases of this development were approved by Cabinet on 26th July 2010. An approval to submit an application for the disposal of the site of the school playing field of the former Lindsworth School north under Section 77 of the Schools Standards and Framework Act 1998, was secured by Cabinet on 30th July 2012. Subsequent to this, the reserved matters planning approval to the details of these phases of the development was approved on 28th May 2015.
- 5.8 This report seeks approval to complete the remaining land appropriations required to implement the planning permission and complete the site assembly required for the new housing development. This includes the construction of the new neighbourhood park and community facilities, these being the replacement of the MUGA and provision of a playing pitch alongside the Malcolm Locker Youth Centre which are planning obligations. A further report is to be presented to approve the final scheme proposals and contract award for the delivery of the park.
- 5.9 To facilitate this development approval is required for the following land appropriations between the general fund and the housing revenue account, the appropriations are identified in the map in Appendix 3
- Site 1 HRA to Place Directorate - 0.17Hectares/0.42 acres
 - Site 2 HRA to Place Directorate - 0.25 Hectares / 0.62 acres
 - Site 3 People Directorate to HRA – 0.65 Hectares / 1.62 acres
 - Site 4 People Directorate to Place Directorate – 0.50 Hectares / 1.23 acres
- 5.10 As part of realignment of land holdings to implement the planning permission, a revised Section 77 application will be made to the Secretary of State for Education. In order to secure the formal approval to the Section 77 application, confirmation is required that the income generated by the appropriation of the part of the former school site that is legally classed as school playing fields will be utilised to improve the new build Starbank School. This matter is identified as a high risk to the successful delivery of the project and is identified together with the remaining risks within the risk register at Appendix 4.
- 5.11 The contractors recommended to be awarded the contracts for the development of the new homes are anticipated to commence works from March 2016, and development will be phased to match the availability of resources within the HRA.

6. Evaluation of alternative option(s):	
6.1	The option to develop all homes for sale and provide a greater capital receipt to the Council has been considered, however the mix of rent and outright sale is based upon meeting the ongoing strategic housing needs of the Council and providing affordable housing in areas of high housing need. The provision of 85 new Council homes for rent detailed in Appendix 1 supports the Housing Revenue Account Business Plan by replacing homes lost through demolition and Right to Buy.
6.2	The option to dispose of sites to a Registered Provider has been considered and discounted on the basis that whilst a capital receipt would be forthcoming, this would be minimal.

7. Reasons for Decision(s):	
7.1	To ensure that the Council through its BMHT programme continues to deliver the high quality new homes for the citizens of the City.
7.2	To enable the consolidation of the development of the area and provide the community facilities needed to establish a sustainable community with new homes, play and leisure facilities.

Signatures	<u>Date</u>
Councillor Tahir Ali – Cabinet Member for Development, Transport and Economy
Councillor Stewart Stacey Cabinet Member for Commissioning, Contracting and Improvement
Councillor John Cotton Cabinet Member for Neighbourhood Management and Homes
Waheed Nazir Director of Planning and Regeneration
Jacqui Kennedy –Acting Strategic Director of Place

List of Background Documents used to compile this Report:
<ol style="list-style-type: none">1. Report to Cabinet 8th December 2014: Birmingham Municipal Housing Trust – Delivery Plan 2015-2020.2. Report to Cabinet 25th March 2013 : Delivering Additional Housing Growth through the Birmingham Municipal Housing Trust (BMHT) Approval of Full Business Case3. Report to Cabinet 30th July 2012: Lyndhurst Regeneration
List of Appendices accompanying this Report (if any):
<ol style="list-style-type: none">1. Full Business Case2. Site Plan3. Land Appropriation Plan4. Risk Register