

Report for: **Cabinet**

Date of Meeting:	13 October 2022
Subject:	Milton Road Development – Review and Progress
Key Decision:	Yes – the value of the works to be carried out will exceed £1million
Responsible Officer:	Dipti Patel – Corporate Director Place
Portfolio Holder:	Councillor Marilyn Ashton - Deputy Leader of the Council and Portfolio Holder for Planning and Regeneration Councillor Mina Parmar - Portfolio Holder for Housing
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	Marlborough, Greenhill
Enclosures:	Appendix A – Plan and artists impressions of schemes at November 2021 and at present.

Section 1 – Summary and Recommendations

This report sets out and seeks approval for the next steps for the development of the Milton Road site following the review of all the Harrow Strategic Development Partnership (HSDP) schemes. It also seeks delegated authority for the appropriation of the Poets Corner site as a whole, including Milton Road to allow development to proceed.

Recommendations:

Cabinet is requested to:

- 1) Note the outcome of the review of the Milton Road scheme;
- 2) Approve the amendment of the scheme from that commissioned by the Council to the HSDP in November 2021 and the taking of relevant steps, including applying for appropriate planning permission. Approval for the implementation of the amended scheme will be sought in October following completion of the final costs and viability;
- 3) Delegate the relevant authority to appropriate such parts or the whole of the Milton Road and Poets Corner HSDP sites for planning purposes and to override third party rights and covenants as may be necessary to the Corporate Director Place following consultation with the Deputy Leader of the Council and Portfolio Holder for Planning and Regeneration and the Portfolio Holder for Housing

Reason: (for recommendations)

To enable the progress of the Milton Road development scheme and facilitate the forthcoming development of the Poets Corner site.

Section 2 – Report

Introductory paragraph

The measures set out in this report allow the development of the Milton Road site to proceed and will also facilitate the forthcoming development of the Poets Corner site. The development at Milton Road provides much needed affordable housing to meet the needs of the Borough's residents.

Options considered

Option 1 – to proceed with the scheme as previously commissioned and as currently consented.

Option 2- is to vary the height of the scheme and switch the shared ownership to market sale. This has been discounted as it is not viable to the Housing Revenue account, failing to achieve a positive net present value, and would necessitate the repayment of grant.

Option 3- would be to do nothing which would reduce or at least delay the provision of much needed affordable housing to meet the needs of the Council's residents as well as submitting the scheme to further uncertainty in terms of planning and cost. Development would likely then be carried out with the wider Poets Corner scheme. Again, there would be a requirement to repay grant.

Option 4 - retaining the shared ownership element of the development but reducing the heights with a consequent loss of 3 units. This is the preferred option and the proposals in this report enable progression of this option.

Background

In November 2021 Cabinet agreed to commission the development of Milton Road through the HSDP and using the exclusivity provisions of the HSDP, it was agreed that Wates Construction would carry out the building works. Authority was delegated to enter into the necessary documentation and a Community Works Agreement enabling this was agreed and completed. Milton Road became an additional site for the HSDP, albeit best seen as an extension to the Poets Corner site rather than as a new core site.

The scheme, subsequently approved by the Council's Planning Committee was a 100% affordable scheme of 39 homes, 12 homes for affordable rent of which 10 were houses and 2 flats suitable for wheelchair use, and 27 flats in a mix of 1 and 2 bedrooms for shared ownership. The scheme also included a non-residential community use on the ground floor of the flatted block. A plan and artists impression of the scheme is attached as Appendix 'A'.

The scheme was commissioned to the HSDP to achieve a start on site before the end of March 2022 to secure the necessary grant, and to ensure high quality design to match the aspirations for the forthcoming Poets Corner site. The scheme at that time was costed and independently reviewed and was financially viable based on the estimates at that time. These were a total scheme cost of £14.9m with a build cost of £13m for the proposed scheme.

Following November 2021, the building industry has been subject to increased inflation as was noted in the update report in March 2022 with a then project budget of £15.8 million.

Demolition started on site in March 2022 and the previous Civic 9 block and associated structures, and services have been removed.

Review

Following the elections in May 2022 all the sites in the HSDP have been subject to review. Consideration was requested as to whether the height of the block of flats could be reduced, and also whether a switch to market sale housing as opposed to shared ownership would be viable.

Following consideration by the architects it was resolved that the top storey of the flats could be removed to reduce the height and improve the appearance of the building, and this could be achieved at a net loss of 3 shared ownership units to the scheme making it a 36 unit scheme of six storeys. Detailed

designs are being produced and it is proposed that a revised application for planning approval will be made in September.

A comparison artists impression is also attached at Appendix 'A'.

As mentioned above, the switch from shared ownership to market sale has been discounted as it is not viable to the Housing Revenue account, failing to achieve a positive net present value, and would necessitate the repayment of grant

Title and Appropriation

The title for Milton Road and Poets Corner are one and the same. There are a range of old restrictive covenants applying to the site, some of which date back to the 19th century, and which reflect the circumstances pertaining at the time. Indeed, some of them restrict the use of the site to dwelling houses rather than a Civic Centre. Given the age of the covenants it is impossible to identify beneficiaries at this stage.

There may also be some rights, such as rights to light, acquired by long use which will also need to be extinguished to allow development to proceed.

It is proposed therefore to appropriate the land for planning purposes. The appropriation will override third party rights and covenants and convert them into a claim for compensation. Any third party whose rights has been affected by the appropriation will be eligible to be paid compensation but will not be able to stop the development through an injunction.

While there is no transfer of land in the case of Milton Road, the ownership of the scheme remaining wholly with the Council, it is important that third party rights and covenants that may hinder the development are dealt with before construction starts.

Cabinet is requested to delegate authority to deal with the appropriation.

Costs

It was noted in the March Cabinet update that the costs of this scheme, as with all the HSDP schemes were under pressure as a result of the recent significant build cost inflation. Since that time Wates have been testing the market and there has been ongoing discussions as to the appropriate market costs for this development.

The reduction in the height of the block of flats will save approximately £496,000 but the challenges of procurement and viability remain. Council officers and advisers together with those working on behalf of the HSDP remain in negotiation with Wates Construction and are approaching agreement on a final contract sum. It is expected that this will be reported to the October Cabinet for final approval.

A final programme and timescale for completion will be reported to the same meeting.

Ward Councillors' comments

Ward Councillors have been consulted on the change to the scheme and at the time of writing no comments have been received. Full consultation as part of the planning application will be carried out.

Risk Management Implications

Risks included on corporate or directorate risk register? **No**

Separate risk register in place? **Yes**

The relevant risks contained in the register are attached/summarised below.
Yes

The following key risks should be taken into account when agreeing the recommendations in this report:

Risk Description	Mitigations	RAG Status
Continued increase in build costs due to inflation as a result of shortages of building materials and labour across the construction industry and on overall project costs	The open book approach to procurement offered by the HSDP helps ensure that the Council benefit from Wates economies of scale helping to achieve better value for money and the best possible quality. There is a continued negotiation in progress and high -quality advisers are assisting the Council achieve the right market price in difficult times.	Red
Health and Safety construction risks due to the site location on a very busy corner with frequent high-volume vehicle and pedestrian traffic	As the Council's delivery partner, Wates will have responsibility for site safety, and this will be monitored by the Council. Wates will prepare and deliver a clear health and safety management plan and this will be reviewed and reported on frequently.	Green

Procurement Implications

There are no procurement implications to this report. The Milton Road scheme was commissioned to the HSDP through the mechanisms set up within the HSDP and approved by Cabinet in November 2021.

Legal Implications

S.122 of the Local Government Act 1972 gives the Council the power to appropriate its land for any purpose for which it is authorised to acquire land, including for planning purposes, provided that the land is no longer required for the purpose for which it is held immediately before the appropriation. The effect of such an appropriation is to convert all third-party rights into a claim for compensation pursuant to s.203 of the Housing and Regeneration Act 2016. Third parties whose rights are affected by the development the appropriation is intended to facilitate, can claim compensation but will not be able to delay or stop the development through an injunction.

Section 12 of the Local Government Act 2003 gives the Council power to invest for any purpose relevant to its functions under any enactment, or for the purposes of the prudent management of its financial affairs. The Council, however, has a general fiduciary duty to its rate payers and needs to have regard to this duty when making decisions relating to disposal of its assets or spending.

Financial Implications

Milton Road is one of the schemes currently included as part of the Building Council Homes for London Programme (BCHFL) with a scheme budget allocation of £15.873m being delivered within the Council's HRA through the HSDP.

The £15.8m budget was allocated for the original scheme of 39 homes, 12 rented units and 27 Shared Ownership units. We are currently working with the HSDP to review the budget; grant assumptions and revised costs estimates to finalise the budget for the revised scheme of 36 homes. The budget of £15.8m includes no specific scheme contingency. As noted above the current period of building cost inflation is presenting significant challenges to all schemes and these negotiations are critical to achieving scheme viability.

The budget for the revised scheme, along with financial viability, will be reported back to Cabinet in October for approval once the final discussions have been completed with the HSDP.

Equalities implications / Public Sector Equality Duty

The Harrow Strategic Development Partnership has been formed to deliver the Council's regeneration ambitions. These will help to create benefit for all of Harrow's diverse communities. The addition of 36 units to the Council's stock, through the HSDP, will increase benefit for members of the protected groups.

As was noted at the November 2021 Cabinet report, a detailed Equalities Impact Assessment was carried out when the HSDP was established and a detailed Equalities Impact Assessment (EqIA) will be carried out in respect of site -specific Business Plans. Following review, the Poets Corner Business Plan is intended to be brought to Cabinet later this year and the Milton Road scheme will be included in the detailed consideration of the implications of the wider scheme.

Section 3 - Statutory Officer Clearance

Statutory Officer: Dawn Calvert

Signed by the Chief Financial Officer

Date: 7.9.22

Statutory Officer: Hugh Peart

Signed by the Monitoring Officer

Date: 7.9.22

Chief Officer: Dipti Patel

Signed off by the Corporate Director

Date: 7.9.22

Head of Procurement: Nimesh Mehta

Signed by the Head of Procurement

Date: 5.9.22

Head of Internal Audit: Susan Dixson

Signed by the Head of Internal Audit

Date: 7.9.22

Mandatory Checks

Ward Councillors notified: YES

EqIA carried out: NO

EqIA cleared by: N/A

See Equalities Implications section. A full EqIA will be completed with the Poets Corner Business Plan which is intended to be brought to Cabinet later this year following review. The Milton Road scheme will be included in the detailed consideration of the implications of that site.

Section 4 - Contact Details and Background Papers

Contact: Julian Wain, Interim Commercial Development Director
– julian.wain@harrow.gov.uk

Background Papers: None

Call-in waived by the Chair of Overview and Scrutiny Committee - NO