

## LONDON BOROUGH OF HAMMERSMITH & FULHAM

**Report to:** Cabinet  
**Date:** 06/06/2022  
**Subject:** Hartopp & Lannoy Development – Construction of New Affordable Homes in Fulham

**Report of:** Councillor Andrew Jones - Cabinet Member for the Economy  
**Report author:** Mo Goudah; Regeneration Manager  
**Responsible Director:** Jon Pickstone; Strategic Director for the Economy

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### SUMMARY

This report concerns the proposed development of the site formerly occupied by Hartopp Point and Lannoy Point tower blocks, on the Aintree Estate (“Site”). The blocks were demolished in 2020/21 on health and safety grounds due to serious structural issues identified following extensive surveys.

The proposed development (“Development”) will provide 134 homes of which 112 (84%) will be affordable and for which a planning application was submitted in May 2022.

Following extensive public consultation and co-production with residents of the Aintree estate, this development will be built to Passivhaus Classic standards, reducing on site carbon emission by about 86% and reducing residents’ energy bill by about 30%. As a pilot project within the council’s housing development programme, this scheme is a substantial step in meeting council’s ambition to deliver net zero carbon by 2030.

This report seeks approval of a procurement strategy to procure a principal construction contractor and other recommendations critical to enable the successful delivery of the construction phase of the development.

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### RECOMMENDATIONS

That the Cabinet:

1. Approves that Appendix 6 is not for publication on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
2. Approves the Procurement Strategy, as set out in Appendix 1, to procure a construction contractor on a design and build basis for the Development.
3. Endorses the Planning Application that has been submitted for the Site.
4. Delegates authority to the Strategic Head of Regeneration & Development, in consultation with the Director of Finance, to take any necessary steps to resolve

matters arising from the grant of planning permission referenced in Recommendation [3], including the authority to enter into any associated legal agreements arising from the delivery of the development and enabling deeds and agreements with statutory utility providers and third parties including the surrender and re-grant of a lease on existing sub-station, the granting of a new lease and any necessary appropriation of land which is surplus to requirements to expediate and secure the best use of the land.

5. Delegates authority to the Strategic Director for the Economy, in consultation with the Director of Resources, to progress the appropriation of the Site for planning purposes and the use of powers under Section 203 of the Housing and Planning Act 2016 in order to authorise any interference with easements, covenants and other rights in respect of the Site including authorisation to take all necessary steps required in relation to any associated claims, settlements and legal agreements so as to enable the Development of the Site.
6. Carefully considers the responses to consultation undertaken by the Council under Section 105 of the Housing Act 1985 in relation to the Development.
7. Notes and endorses that a budget report will be submitted to the full Council meeting scheduled on 13 July 2022 seeking a budget for the Development. Recommendations 4 and 5 in this report are subject to, and dependent on, approval of that budget report.

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**Wards Affected:** (Munster)

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<b>Our Values</b>	<b>Summary of how this report aligns to the H&amp;F Values</b>
Building shared prosperity	The Development of the site will bring about measurable local benefits including realisable benefits during construction stage where contractors under the council's procurement policy will be incentivised to provide Social Value that is aligned to council's strategies such as the council's Industrial Strategy.
Creating a compassionate council	The Development will help meet the acute need for affordable housing in the locality as well as the wider borough. The construction contractor will also be required to engage in comprehensive public consultation on all aspects of its work to mitigate any short-term impact on local residents. The contractor will be required not to arrange deliveries to or from the site during school drop-offs and pickups as well as restricting the use of residential roads around the site for traffic to and from the site.
Doing things with local residents, not to them	The construction contractor will be required to work in accordance with council's values of working with residents throughout all Development stages.

Being ruthlessly financially efficient	Selection of the construction contractor through robust procurement process will ensure that the project has the best possible chance to deliver high-quality residential homes that are operationally net-zero carbon through the use of external funding and incorporation of private sale homes demonstrating the ruthless financial efficiency of the Development while maximising the number and sizes of affordable homes.
Taking pride in H&F	The aim of the Development is to create a lasting and positive legacy through well-designed blocks and estate amenities while meeting both the climate challenge and the acute need for affordable housing in the borough.
Rising to the challenge of the climate and ecological emergency	The Development will deliver highly sustainable homes that are operationally net-zero carbon and so help create and sustain a low carbon community and neighbourhood.

## Financial Impact

Financial implications on procurement strategy can be found under Appendix 1 of this report.

The financial implications on other recommendations will be provided in the future decision reports as and when approvals are requested to use the delegations, which are subject to the project approval by Full Council.

*Implications completed by Bhavesh Thakker, Principal Accountant (Projects) – Strategic Planning & Investment, 17 February 2022 and verified by Emily Hill, Director of Finance, 17 February 2022.*

## Legal Implications

The Council has a legal duty under section 105 of the Housing Act 1984 to consult with secure tenants where the changes are likely to substantially affect them, the consultation has been carried out to enable the responses to be considered prior to making a decision on the recommendations in this report. The consultation responses have been summarised in [Appendix 5].

In making its decision the Council must ensure that it complies with its public sector equality duty contained in section 149 of the Equalities Act 2010 which requires the Council to have regard to equalities duties when making decisions and exercising its functions. The protected characteristics are as follows:

- Age
- Disability
- Gender reassignment
- Marriage or civil partnership
- Pregnancy and maternity
- Race religion or belief
- Sex

- Sexual orientation

An Equalities Impact Assessment has been carried out for consideration prior to making any decision [appendix 4], the assessment provides evidence that the Council has complied with its statutory duties prescribed in the Act.

Recommendation 3 seeks endorsement of the submitted planning application. Section 316 of the Town and Country Planning Act 1990 provides authority for the Council to submit a planning application on the land of an interested planning authority subject to compliance with the normal planning application submission and determination procedure. Any application must be determined in accordance with the statutory tests and in accordance with development plan unless material considerations indicate otherwise. The planning application for this site has yet to be determined and delivery of the scheme will be contingent on the grant of a planning permission within the necessary timescales in order to comply with grant funding requirements.

The Council will be required to enter into legally binding agreements and commitments on behalf of the Council to facilitate the delivery of this Site including planning agreements, leases, agreements with statutory utility providers and third parties including the surrender and re-grant of a lease on existing sub-station and the granting of a new lease as well as discharging conditions and the authority to negotiate and enter into those agreements will be delegated to Council officers.

The Council has the power under section 122 of the Local Government Act 1972 to appropriate land which is within the Council's ownership for a relevant statutory purpose, the Council may seek to appropriate land under section 226 of the Town and Country Planning Act 1990 for planning purposes. The Council has a general power of disposal under Section 123 of the Local Government Act 1972 which states that a principal council may dispose of land held by them in any manner they wish. Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained. Any disposals of land will be subject to future approvals.

Recommendation 4 seeks authority to take steps to resolve ancillary matters including those arising from the grant of planning permission for the Development. This recommendation includes authorisation to appropriate land which is surplus to requirements. This is separate to the authorisation of appropriation conferred by recommendation 5, as this may be required to enable the delivery of highway infrastructure or otherwise facilitate the redevelopment as well as including the power to enter into legal agreements including leases.

Recommendation 5 seeks authority for the Council to exercise its powers under Section 203 of the Housing and Planning Act 2016 in this case by way of officer delegation subject to compliance with the statutory tests and if necessary, in order to override any easements or interests in the land where the land has been appropriated for planning purposes and this will be subject to the payment of any necessary compensation.

Any exercise of powers under Section 203 of the Housing and Planning Act 2016 will require a further approval pursuant to the delegation. At that stage, the Council acting

through that delegation will give further and full consideration to exercising the legal powers available to (i) appropriate land and (ii) override third party rights as required

The use of these powers creates an interference with private property rights. The constitution states that the use of CPO powers for planning purposes are exercised by the Cabinet Member for the Economy and the Cabinet Member for Environment. Recommendation 5 relates to the exercise of section 203 powers and officers will have the delegated authority as necessary to take all steps to progress and exercise powers under Section 203. Prior to any delegated decision being taken officers have a legal duty to prepare and consider an Equality Impact Assessment and address Human Rights impacts of those persons who are affected. The legal process has been addressed in Appendix 2 of the report.

*Jane Astbury Chief Solicitor (Planning and Property) 1 March 2022*

*Legal implications on procurement can be found under Appendix 1 of this report.  
Joginder Bola, Senior Solicitor (Contracts & Procurement), 14/02/2022*

*Legal implications and explanations on the use of S203 can be found under Appendix 2 of this report.*

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## **Background Papers Used in Preparing This Report**

*None*

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## **DETAILED ANALYSIS**

### **PROPOSALS AND ANALYSIS OF OPTIONS**

#### **Background**

1. The council embarked on a major development programme that will see 1,800 homes delivered over 10 years under the Building Homes and Communities Strategy. The strategy dictated three principles to underpin all developments:
  - a. no development to proceed without substantial resident involvement and support
  - b. an interdependency between the Building Homes and Communities Strategy and the Defending Council Homes policy; and,
  - c. the establishment of a resident panel to be an integral part of the development approval process and to provide input on development proposals and oversight regarding consultation with residents.
2. The Hartopp and Lannoy site became vacant following the demolition of two 14 storey Tower Blocks. They were located in Munster Ward and were built in early 1970s, using a construction method called a Large Panel System (or LPS).
3. Routine inspections of the blocks highlighted fire safety issues, following which the council immediately employed 24 hour watching briefs on every floor of the

blocks. The council also offered tenants concerned of living there, the ability to move to other council homes in the borough. For concerned leaseholders, the council offered to buy back their properties.

4. Simultaneously, the council initiated extensive surveys to understand the condition of the blocks, as well as the causes, and potential remedies to the fire safety issues.
5. The final structural report was published in February 2019, which highlighted serious structural deficiencies of the blocks due to their construction using the Large Panel System. This report highlighted the need for either immediate remediation of the structural issues or demolition of the blocks.
6. The safety and wellbeing of the residents is always the council's priority. In April 2019, and following resident consultation, the council took the decision to demolish the blocks and acted immediately to decant tenants and empty the blocks as quickly as possible. To enable a speedy decanting of the blocks and payment of compensation, the council made a Compulsory Purchase Order which was granted in December 2019.
7. Plans for what to do with the site did not commence until the blocks were emptied and their demolition had reached a safe stage (blocks were demolished between May 2020 and February 2021). Following this, a budget was approved for a development of the site and architects and professional consultants were appointed (in December 2020) to work with residents to co-produce designs for a follow-on redevelopment of the site.
8. Substantial site enabling works followed completion of demolition, to prepare the site for development, to minimise the programme of construction and impact to residents living in the area. These works included ground remediation, removal of demolition debris and site surveys. These works took place between May 2021 and February 2022.

### **Co-production**

9. The council's approach to development is co-production where estate residents have a direct involvement and influence over developments in accordance with council's Defend Council Homes Policy (DCHP).
10. In line with the First Notice under the DCHP, a Residents Panel of Aintree estate was created in February 2021 and the Panel was invited to work with the appointed architects to produce designs for the Development. The council also extensively consulted with and engaged residents in the wider area in line with the council's value of "*doing things with local residents, not to them*".
11. So far the Aintree Estate Residents Panel held 10 formal meetings in addition to three public consultation events which were attended by about 140 residents.
12. Engagement and co-production with both estate residents and wider residents' groups have had a direct and material effect on the evolution of the design from a concept design to the planning submission stage.

13. The changes in the design after each engagement to incorporate residents' views and preferences meant the residents' strong support or support for the Development which initially started at 60% has reach 80% by the time the planning application was submitted.
14. Some notable changes in the design as a direct result of residents' views include lowering the height of the blocks on Pellant Road, setting back the upper floor of the blocks on Pellant Road, redesign of balconies especially on William Close and extensive planting of trees and shrubs across the site.
15. In terms of homes, the final design will deliver in 134 homes of which:
  - a. 67 homes will be social rent/London Affordable Rent;
  - b. 45 will be affordable rent and affordable homeownership; and
  - c. 22 will be private sale homes.
16. The delivery of these 112 new affordable homes equate to 84% affordable housing provision in this Development. The delivery of 22 private homes is in line with the Building Homes and Communities Strategy principle to a self-financed affordable development. The Development is also partly financed by Greater London Authority and Right to Buy receipts.
17. This Development supports the council's 2018-2022 Business Plan objectives and aspirations and will accelerate the delivery of much needed affordable housing.
18. Importantly, the Development meets the council's financial viability tests while maximising the number of affordable homes and utilising external funding. The development achieves a positive Net Present Value [at year 50] and internal rate of return above 4%.
19. Planning application for the Development was submitted in May 2021 with and expected decision around the autumn 2021.

### **Design principles**

20. Collaborative working with residents and co-production of the design has been the foundation of the Development from the start of the project.
21. Ecology and net zero carbon – The Site was selected early on in the process to be one of first sites to be delivered under the Council's Climate and Ecology Strategy and transitional targets. It is the first of three planned projects that will achieve not only Passivhaus classic standards but also be operationally net zero carbon. Based on design, the Development is estimated to reduce on-site carbon emissions by about 86% and in doing so help bring down residents' energy bills by about 30%.
22. Accessibility and inclusiveness of the design have been one of the core principles underpinning the design brief from the start. The council engaged specialist accessibility consultants to maximise accessibility within the development. The final design deals well with a complex site with significant level changes ensuring

all new and existing homes can be reached via level access and new amenity space is inclusive and welcoming. Notably, Hammersmith and Fulham Disability Forum Planning Group were engaged and were given the opportunity to feed into the design. Their feedback was valuable and overwhelmingly positive. Secure by Design principles were followed to ensure the safety and wellbeing of all residents.

23. A number of other key principles that have underpinned the design are optimising urban greening and ecology of the Site; providing a high level of permeability across the Site, linking the Site to the existing parts of the estate and to its surrounding; ensuring level access across the site and providing a range of facilities on site, including recreational provision for all age groups.

### **Next Stage**

24. Following on from design and submission of a planning application, the next stage of the development is to appoint a principal construction contractor. The report seeks approval of a Procurement Strategy, as set out in Appendix 1, to procure the contractor, as well as other recommendations that are critical to the successful delivery of the Development.
25. Alongside this report, a separate report will be submitted to the Council in July 2022 to secure a full development budget to fund the construction stage and other development activities through to completion as outlined in Appendix 6 (exempt).
26. Procurement of the construction contractor will commence promptly to enable a start on site on or before March 2023. Appointment of a construction contractor and achieving that start on site date is dependent on the approval of the Development budget. The start on site date is critical to the Development as it is linked to external Greater London Authority funding for affordable housing delivery.
27. Residents of the Aintree Estate, through the Residents Panel, will be invited to participate in the selection of the construction contractor who will be required to work closely with residents to mitigate impact of construction activities on the locality.
28. A Second Notice under the DCHP will be issued to residents following the granting of the planning permission and after the appointment of construction contractor. The Second Notice will include a statement of substantive commitments to residents on matters such as how residents may continue to be involved and co-produce the Development; the timing and phasing of the construction programme; site conditions and security; engagement and consultation including on any temporary works or diversions, on-site communications and complaints including named officers residents may contact.
29. It is anticipated that some further enabling works will need to be carried out alongside procurement of the construction contractor. This will include the potential decommissioning of an electrical sub-station on site and the installation of a temporary sub-station away from the foundations of the new buildings. The cost of these enabling works has been included in the budget report to full Council in July 2022.

30. Following the granting of the planning permission, some pre-commencement planning conditions might need to be discharged by the council, in its capacity as the landowner, and before the construction contractor takes over the Site. Approval (under recommendation 4) to discharge these pre-commencement conditions, and not delaying them to be discharged by the construction contractor will help ensure March 2023 start on site date. The council may also need to appropriate the land for planning purposes as set out in Appendix 2 and covered in recommendation 5.
31. The main milestones of the Development are outlined below with practical completion being anticipated on or around August 2025.

Development's Main Milestones	Month
Cabinet approval (including Procurement Strategy)	June 2022
Commencement of the Procurement Stage	June 2022
Council approval - Development Budget	July 2022
Anticipated Planning Application Decision	Autumn 2022
Conclusion of procurement stage with an Award Decision	December 2022
Construction contractor to start on site (on or before)	March 2023
Practical completion of the Development	August 2025

32. Due to the size of the Development, a phased practical completion may be adopted which would allow sections of the Development to be ready for occupation before the rest are completed.
33. Officers will continue to update members on the progress of the construction phase of the Development through existing channels as well as holding periodic briefing sessions.

### **Public benefits**

34. The Development will contribute significantly to the council's commitment to respond to the climate change challenge as well as the delivery of genuinely affordable homes that are energy efficient under its housing development programme. The Development will deliver substantial public benefits that far outweigh any potential interference in any third-party rights. Public benefits can be summarised into three distinctive categories:
35. Local transformation – The Development will transform the site formerly occupied by two high rise blocks; Hartopp Point and Lannoy Point to create a lasting and positive legacy through a well-designed residential development including new estate amenities. Those amenities have been designed to be inclusive, accessible and importantly incorporate the new parts of the estate into the existing parts.
36. The estate experienced some antisocial behaviour (ASB) that were partly attributable to the 1960s design of the podium that existed between the blocks

as well as the underground garages hidden underneath the podium. This 1960s design created areas that were susceptible to being used for, or be the centre of, anti-social behaviour locally. However, through the employment of Secure by Design principles and landscaping the proposed Development seeks to design out ASB.

37. New Homes – The Development will provide 134 eco-friendly operational net-zero carbon new homes of which 112 will be affordable. This represents a remarkable qualitative and quantitative enhancement of housing provision on the Site.
38. A Lasting Legacy - Social and Economic Impact – The Development will have significant positive impact during its whole lifecycle starting with the construction stage which will create direct and measurable benefits to the locality arising from construction works and the contractor being required to offer training, apprenticeship and employment to local residents as well as being required to incorporate local small and medium-sized enterprises (SMEs) by into its supply chain. The social and economic benefit of the net-zero carbon development once occupied is significant especially at a time of energy price inflation and fuel poverty.

### **Options Analysis**

#### **Option 1: Do nothing (not recommended)**

39. The “do nothing” option would either mean not proceeding with this decision or not proceeding with the Development.
40. Not proceeding with this decision but proceeding with the Development would result in a significant delay to the construction and start on site which would result in loss of external funding putting the whole Development in jeopardy.
41. Not proceeding with the Development would mean immediate write-off of costs incurred by the council so far as well as leaving a significant part of a council estate hoarded off following demolition of the two blocks.
42. Not proceeding with this Development will also mean restarting a new process to help decide the future of the Site and so extend the period in which the site will continue to be hoarded off further increasing risks associated with hoarded sites including vulnerability to trespass and vandalism.
43. Not proceeding with the Development may also put at risk the council's commitment under the Compulsory Purchase Order granted in December 2019 to delivering a quantitative enhancement to housing provisions on site within 10 years of that order.
44. Ultimately not proceeding with this decision or the Development would indefinitely postpone the delivery of much needed genuinely affordable housing in the Borough.

## **Option 2: Approve this report's recommendations (recommended)**

45. This is the recommended option as it will allow the Development to proceed to the construction stage; deliver on the council's commitment to increasing provision of genuinely affordable homes in the borough; safeguard the council's investment so far; and help ensure a key external funding requirement for a start on site by or before March 2023 is met.
46. Analysis of options relating to the Procurement Strategy are set out in Appendix 1 of this report. Analysis of the delegated decision on the potential use of Section 203 are set out in Appendix 2 of this report.

## **Reasons for Decision**

47. Procurement Strategy: to comply with requirements contained in Contract Standing Orders (CSO 18), requiring approval of a Procurement Strategy before a regulated procurement exercise is commenced as well as outlining the procurement route selected to achieve best value for the council.
48. Other construction enabling decisions: to allow the Development to proceed to construction stage so as to achieve the council's overall objectives including increasing the provision of affordable housing in the borough.

## **Equality Implications**

49. As per the Equality Act 2010, the Council must consider its obligations with regard to the Public Sector Equality Duty (PSED). It must carry out its functions with due regard to the duties (including under the Human Rights Act 1998) and its effect on the protected in a relevant and proportionate way. The PSED duty came into effect on 6th April 2011.
50. An Equality Impact Analysis (EqIA) has been undertaken for the redevelopment, see appendix 4 for details. It shows that the redevelopment of the site, to provide residential homes of which the majority to be affordable homes, when reviewed against the profile of persons and households on both the council Housing Register and the Home Buy register (affordable homeownership register) to have a positive impact on, the following groups:
  - **Age** — the Development provides a higher proportion of affordable homes and so would meet some of the demand of younger and older households seeking first home or downsizing.
  - **Disability** —the Development will incorporate 10% wheelchair homes as well as designing all homes to "Lifetime Homes Standards". Additionally, principles of accessibility by design have underpinned the whole design philosophy of the Development.
  - **Gender reassignment** — the Development is not anticipated to have any impact on persons with this protected characteristic.
  - **Marriage or civil partnership** — the development is not anticipated to have any impact on persons with this protected characteristic.

- **Pregnancy and maternity** — the Development is not anticipated to have any impact on persons with this protected characteristic. However, an indirect effect may arise from William Close which is an estate road that provide the sole vehicle access to some housing association properties. Maintaining 24-hour vehicular access to these properties will need to be key criterion in the construction programme.
- **Race religion or belief** — the Development is not anticipated to have any impact on persons with this protected characteristic.
- **Sex** — the Development is not anticipated to have any negative impact on persons with this protected characteristic. It may have an indirect positive impact through the provision of family sized homes to families in overcrowded accommodation to alleviate overcrowding and sibling of different sexes sharing rooms.
- **Sexual orientation** — the Development is not anticipated to have any impact on persons with this protected characteristic.

51. In addition to, and separate from the Section 105 consultation, the Council has a duty under the Equality Act 2010 to have due regard to the impact of the Development on estate amenities including parking might have on residents with “protected characteristics” (in this context the most obvious group being disabled persons reliant on their (or their carer’s) cars in order to get about and families with young children). The Council being minded of its duty, under the Act, to make “reasonable adjustments” to assist tenants with protected characteristics, has retained sufficient number of parking spaces in an otherwise car-free development for the sole use of residents of existing blocks as well as incorporating up to 13 disabled parking accessible to residents in the new blocks once completed.

### **Risk Management Implications**

52. This is the first and the largest scheme to build new homes of the council’s modern era development programme. The fact that it has been over 40 years since the council had an active development programme rises contractual, financial and operational risks that could be mitigated against through the use of external experts and consultants. While this may mitigate against contractual and operational risks, it may result in council development cost to be marginally higher than comparable private developers.
53. However, these risks have been considered by the Strategic Regeneration & Development Team and adequate mitigations have been put in place to deal with such risks.
54. In any case, specific risks and mitigation for each delegation would be considered as part of the decision to exercise of the delegations to be granted by the recommendations of this report.
55. Officers will ensure that it is made clear to tenderers that progressing the scheme is subject to the overall scheme budget being approved in July 2022. Officers will also confirm that an appropriate budget is in place to cover the enabling works referred to in the report.

56. Appropriate programme and governance will be put in place to ensure that the programme is delivered, to budget, on time and the required outcomes are achieved. This will include maintaining a programme risk register.
57. Risk implications relating to the Procurement Strategy are set out in Appendix 1 of this report. Risk and mitigation relating to the delegated decision on the potential use of Section 203 are set out in Appendix 2 of this report. Undertaking a competitive procurement process is in line with the Council objective of being ruthlessly financially efficient.

*David Hughes, Director of Audit, Fraud, Risk and Insurance, 1 March 2022*

### **Climate and Ecological Emergency Implications**

58. The proposals for the Hartopp and Lannoy site will target operational net zero for the new development and will aim to promote the climate emergency via a variety of different methods measured using the council's sustainability tool kit. Throughout the design process the project team have designed clear ways in which to insulate buildings and use recyclable material where possible. The proposal also includes the installation of solar panels or other renewable energy generation and include installation of measures to help manage building energy demand, such as smart meters, timers on lighting, or building management systems.
59. The design has considered multiple factors to promote ecological benefits of the project, which include avoiding converting green space to hard surfacing and use underutilised space for planting, such as green roofs and walls. The project will also provide space for animals e.g., long grass areas, bird boxes, bat boxes, 'insect hotels'.
60. The design will also look to install water-saving devices in taps, showers and toilets, re-use grey water in new developments and ensure all new building models and mitigates future overheating risk, with adequate ventilation and shading. The Development will also convert hard surfacing to green and permeable surfacing where possible and install sustainable drainage systems (Suds).
61. The Contractor will also seek to construct new buildings to a net zero standard (see the LETI design guide: <https://www.leti.london/cedg>) and use construction methods that reduce overall energy use, such as modular, factory-built components, or use of electrical plant on-site.
62. On 17th July 2019 LBHF declared a climate emergency, pledging to cut CO2 emissions from the Council's activities to net zero by 2030. As part of the Climate and Ecology Action Plan, action H1.7 stipulates completing two pioneering projects for zero carbon homes by 2022-23. Should the Passivhaus standard of energy efficiency be realised, part of this goal will have been achieved.

*Verified by: Jim Cunningham, Climate Policy & Strategy Lead, 14<sup>th</sup> February 2022*

## **Local Economy and Social Value**

63. Local economy and Social Value are considered in Appendix 1 – Procurement Strategy.

## **Consultation**

64. The council has undertaken a statutory consultation under Section 105 Housing Act 1985 with council secure tenants in the relevant parts of the estate. The consultation sought council secure tenants' (and other resident's) views on the Development including proposed changes to estate amenities.
65. Consultation packs were hand-delivered to residents on the 8<sup>th</sup> of February with consultation open from 9<sup>th</sup> of February 2022 to 9<sup>th</sup> of March 2022. In total 40 households were consulted. A summary of the issues consulted on are outlined in Appendix 5
66. This statutory 105 consultation was in addition to the on-going co-production with residents (under the DCHP) who have been involved from the start and helped shape the Development proposal.
67. The active and direct involvement of residents to co-produce the proposed Development, including changes to estate amenities, may explain the lack of response received to this specific consultation exercise.

## **LIST OF APPENDICES**

- Appendix 1 – Procurement Strategy
- Appendix 2 – Use of Section 203
- Appendix 3 - Public Sector Equality Duty
- Appendix 4 – Equality Impact Assessment
- Appendix 5 – Section 105 Consultation
- Appendix 6 – Exempt Finance Comments

## **APPENDIX 1 – PROCUREMENT STRATEGY**

### **SUMMARY**

1. This Procurement Strategy sets out the procurement route for procuring a principal construction contractor for the development of Hartopp and Lannoy Points site, to provide 134 new homes of which, 112 homes will be affordable homes.
2. The scheme responds to the Council's Climate and Ecology Strategy and transitional targets. It is the first of three pilot projects that will achieve not only Passivhaus classic standards but also be operationally net zero carbon. Designs will reduce on-site carbon emissions by about 86% and in doing so help bring down residents' energy bills by about 30%.

### **FINANCIAL IMPACT**

3. The report proposes to use the A2Dominion framework (Lot No: LN3) for procurement a single stage, design and build construction contract for the delivery of the new development on Hartopp & Lannoy.
4. There is no direct financial impact of approving this strategy except a Procurement Levy of £3,000 and legal costs, which can be funded from the existing RIBA stage 4 development capital budget of £3,715,262 approved under the 'Hartopp Point & Lannoy Point Site – New Council Homes' Cabinet report dated 4 January 2021.
5. The actual cost of the design and build contract will not be known until the tender process is complete. Full financial implications and checks on the financial standing of the successful tenderer will be set out in the subsequent contract award decision report.
6. Only the initial expression of interest stage will be completed before Full Council considers the budget approval. Mitigations will be in place to manage the financial risk of any claims from tenderers submitting expression of interest if the scheme does not obtain budgetary approval to proceed.
7. Further finance comments are in Appendix 6 - Exempt

*Implications completed by Bhavesh Thakker, Principal Accountant (Projects) – Strategic Planning & Investment, 17 February 2022 and verified by Emily Hill, Director of Finance on 17 February 2022.*

### **LEGAL IMPLICATIONS**

8. The procurement strategy proposed has identified the A2Dominion framework (Lot No: LN3) for the procurement of the main principal contractor.
9. The value of the call-off contract is over the threshold for works, and therefore subject to the full remit of the Public Contracts Regulations 2015 ("PCR"). Legal services evaluated the A2Dominion framework and confirmed that it is compliant with the PCR and is appropriate for use.

10. Under the Contract Standing Orders (CSO), this contract is a High Value works contract. Under CSO 19, a mini competition and then call-off from a compliant framework satisfies the Council's procurement requirements for High Value works contracts, provided that the rules of the Framework have been followed.
11. As this report concerns the procurement of a contract in excess of £300,000 in value it is a Key Decision (see Article 12 of the Constitution) and must be submitted to Committee Services for publication on the Council's website.
12. This procurement strategy must be submitted to the Contracts Assurance Board before being submitted for approval to the decision maker in accordance with CSO 18.1

*Legal Officer: Joginder Bola, Senior Solicitor (Contracts & Procurement),  
14/2/2022*

## **THE STRATEGY**

### **Market research**

13. The construction market is experiencing a mixed recovery. Infrastructure and public sector construction is above February 2020 levels while new construction, driven by private and commercial sectors, remains below February 2020 levels. Despite this mixed picture, the latest monthly construction output shows an overall increase of 3.5% in November 2021 compared with October 2021, demonstrating a healthy recovery; albeit somewhat restrained by supply chain issues as well as loss of some skilled workers following Brexit.
14. The construction industry, like many other industries, was affected by the lockdown and downturn in business, creating some uncertainty over the medium to long term viability of many companies in the industry. While larger construction companies have so far been able to withstand disruption to their supply chain, smaller and medium size companies have been more affected with some notable regional companies entering administration. This creates additional risks for the Council which this, procurement strategy seeks to control through the use of an existing Framework and the application of strict financial and quality control mechanisms in the contract.
15. The Council with the support of its external consultants has carried out detailed soft market analysis, including direct engagement with proportionately sized construction principal contractors. This was to understand market capacity, contractors' appetite for a development of this size and type, deliverability of the development within the Council timeline as well as relative desirability of different procurement routes.

### **Development Objectives**

16. The objective of the development is to develop a vacant brownfield site, previously occupied by Hartopp Point and Lannoy Point. The development will provide 134 high quality, sustainable and affordable homes that achieves exemplar sustainability standards and achieve operational net-zero carbon emissions on-site.

### **Development cost**

17. The estimated contract sum for the principal contractor is set out in Appendix 6 (exempt).
18. In arriving at this estimate of costs, the council has employed a cost consultant to work alongside the development team and architects. The role of cost consultants is to provide detailed advice based on benchmarked industry information on materials and labour, to ensure that the council can accurately tender for a contract and secure the appropriate budget.

### **Quality**

19. The technical requirements are dictated by various statutory policies, regulations and grant agreements etc, but, detailed proposals are currently being finalised, but the main quality objective is the construction of 134 homes operationally net zero homes that also meet Passivhaus classic standards.
20. In line with the council's value of "doing things with local residents, not to them", the contractor to be appointed under this procurement will be required to engage with local resident and minimise impact of its work on residents including abiding by site specific requirements such as maintaining uninterrupted access to William Close and signing up to 'considerate constructor' schemes etc.

### **Contract Specifications Summary**

21. The form of contract to be used will be the industry recognised JCT Design and Build standard form of Contract (2016), with specific council amendments. This contract and the amendments are permitted by the proposed Framework. This main contract will also be underwritten by various sub-contractor/consultant JCT warranties.
22. The contract length is envisaged to be approximately 28 months and would be subject to the appointed contractor's programme which will include sectional (phased) completion.

### **Analysis of Procurement route options**

23. The estimated value of the contract is above the threshold for works and so, the Public Contract Regulations (2015) would apply to this procurement.

### **Procurement Routes**

24. In proposing a procurement route, officers considered factors such as the complexity of the construction, the experience required, the need for real and measurable competition to assure the council of best value for money and deliverability and risk mitigation.
25. The procurement route proposed by this report is the use of a third-party Framework to call-off a contract following a mini-competition which will assure the council of achieving best value for money in accordance with COS 19.
26. The use of an existing third-party framework that has been established in accordance with public procurement regulations would allow the council a

simplified route to market while ensuring good value for money through the running of a mini-competition among contractors on the framework.

27. The use of an existing third-party Framework offers demonstrable advantage to the council as it offers resource and time efficiency to both the contracting authority and contractors on the framework.

### **Frameworks considered**

28. There are various compliant frameworks provided by public bodies and major housing associations that offer a quicker route to market and access to a pool of pre-selected contractors that have already been pre-assessed by framework providers as suitable for delivering construction works of this size and complexity.
29. Various third-party frameworks were reviewed including Catalyst framework; CCS framework; Clarion framework; Connected framework; Hyde Housing Framework; Notting Hill Genesis framework; Pagabo framework; Procure Partnership framework; Scape framework; SEC framework; and Southern Housing Framework.
30. Following the review, A2Dominion's Framework was identified to be the most suitable for use for the development as it has an extensive list of contractors with demonstrable experience and ability to deliver a development of this size and nature.
31. Documentations of this framework have been examined and following determination that the framework is compliant, the Council entered into an access agreement with the framework provider.

### **Main options considered**

#### **Option 1: Do nothing (not recommended)**

32. The "do nothing" option would either mean (a) not proceeding with this decision or (b) not proceeding with the development of the site or (c) not appointing a construction contractor at this stage and extending the involvement of the architects to produce detailed design to RIBA Stage 4.
33. Not proceeding with this decision but proceeding with the development would result in a delay to procurement of the construction principal contractor. This option would significantly delay commencement on site, jeopardise external funding linked to start on site and ultimately delay the delivery of much needed affordable housing.
34. Not proceeding with the development would mean significant abortive costs incurred so far from concept design to the Planning Application submission stage. It will also mean leaving a significant part of a council estate hoarded off with no clear plan to redevelop it. Additionally, this option would indefinitely postpone the council's commitment under the Compulsory Purchase Order which required the redevelopment of the site to provide qualitative housing gain.
35. Not procuring a construction contractor at this stage but proceeding with the development would mean continuing detailed design with existing Architect and

associated consultants (after securing a new budgets and approval to vary the previously tendered commissions). While this may offer some advantageous in terms of offering certainty about design integrity it would mean significant detailed design would be completed by the architect with no direct 'buildability' input from an experienced contractor. This would also mean result in an extension of the programme by at least 9 to 12 months resulting in a loss of the external funding for the development making the Development unviable

**Option 2: Carry out an end-to-end tender process through Capital E-Sourcing (not recommended)**

36. For a large construction site, traditional Open, Restricted, Competitive Procedure with Negotiation or Competitive Dialogue procedures would test the whole market bringing about more competition but would hugely increase the resources needed to carry out a procurement and the timescale to appointment.
37. Additionally, the fact that contractors incur significant costs for each tender submission they prepare for a construction of this size, an open tender process with potentially unlimited participation may deter many established suppliers from taking part. This would also very likely result in a mixed quality of submissions (including local SME's) however, with potentially noticeable absence of some experienced contractors for this size and complexity of project.
38. The significance of the of the risk of experienced contractor not participating in an open tender became apparent during market engagement as it was clearly communicated that contractors are selective of tenders they participate in and open tenders with potentially high participation present unacceptable risk to their upfront cost and so many stated that they would not participate in such tenders.

**Option 3: Procure through Lot LN3 – London and Home Counties (above £25m) of the identified framework (recommended)**

39. The identified framework; A2Dominion, features 29 contractors arranged over three regional lots with each lot split into three bands based on contract value: up to £10m, £10m to £25m, and more than £25m.
40. The framework was deemed to be the most suitable because it has a high number of experienced and capable contractors as well allowing value for money to be assured through a mini-competition exercise to be run following an expression of interest process.

**Competition process**

41. The mini-competition process would be run as a single stage tender following an expression of interest (Pre-Qualification Stage or PQQ) stage, where contractors would be shortlisted in order to be invited to participate in the mini-competition.

**Expression of Interest Stage – Sifting of Contractors**

42. The competition process will commence with an expression of interest stage where the 12 contractors on Lot LN3 will be invited to express an interest and be sent a sifting brief. The sifting brief will set out the development and provide sufficient information about the site, background to the development, core

objectives as well as general technical information needed to help them understand the type of the construction required.

43. The sifting brief will also include specific questions designed to ascertain each contractors' capabilities and experience directly related to the delivery of residential net-zero developments within inner London areas.
44. The sifting brief will include no more than 10 questions, grouped in 3 categories:

<b>Category</b>	<b>Overview</b>	<b>Weighing</b>
Price	To determine if the building can be constructed to the required standard within the allocated works.	15%
Quality and Sustainability	Focus on previous experience with Passivhaus, net zero carbon and highly sustainable building, on site quality control.	60%
Logistics and Stakeholder Management	To concentrate on possible sectional completions, site logistics, stakeholder issues and programme challenges.	25%

45. Where more than 4 contractors were to express an interest, responses will be evaluated by the Tender Appraisal Panel (TAP) using the categories and weighting (set out above) with the top 4 scoring contractors moving to the mini-competition (Invitation to Tender) stage. If fewer contractors express an interest, procurement will proceed to the mini-competition stage without a need for a sifting stage evaluation.
46. Scoring of responses at the sifting stage will follow the scoring outlined in the mini-competition stage including the minimum score required. And so, each response will be marked out of a possible score of 10, with 0 being the lowest and 10 being the highest.
47. Total score for each category will then be multiplied by the relevant category weighting to arrive at a weighted score for that category. Weighted scores will be added together to produce a total sifting score which will determine the relative position of each contractor and the 4, contractors proceed to the mini-competition stage – Invitation to Tender.
48. Unsuccessful tenderers will be notified in writing and provided with feedback on their responses to the sifting stage including their scores, the total number of submissions received and the highest and the lowest score.

**Mini-competition**

49. Following the sifting stage, the successful tenders will be sent the full Invitation to Tender (ITT) documents and tenderers will be expected to submit by the ITT's deadline full proposals which will be evaluated in accordance with the Selection and Award Criteria section below.
50. As part of the ITT documents, tenderers will be invited to consider Social Value commitments aligned with council strategies and therefore deliverable Social Value can be on a scale commensurate with the large value of this contract. This is to maximise the social value that can be realisable from this tender.

51. The Council will secure Social Value through the use of bespoke measures that are suited to construction works and bidders will be required to offer Social Value for evaluation. 10% of the overall quality score will be ascribed to Social Value and both the value and the quality of bidders' proposals will be scored.
52. The scoring will incentivise bidders to maximise their social value offer, however, bids offering a social value of less than 10% of a bid's price will not automatically be rejected. Awarding of a contract will be based on the most economically advantageous offer. This is in accordance with Council's Contract Standing Orders.
53. Hammersmith & Fulham Social Value policy incentivises bidders for high value contracts to target two types of Social Value measures: training and employment for local people and incorporating Hammersmith and Fulham based supply chains into contracts. However, it is evident from existing high value works contracts that local supply chains do not exist in the borough to meet the demand of complex construction contracts. Contractors have only been able to secure a fraction of the required local spend to meet their minimum (10%) social value target. To meet a minimum social value target through employment and apprenticeships, a contractor would need to continuously employ 70 local residents throughout the construction programme. This would likely exceed the number of operatives on site at any point in construction process. Given this context, applying a minimum contract value threshold (of 10%) would risk the council not appointing the best qualified and highest quality contractor, overpaying for contract services or that the contractor could be in default during the construction process.
54. Responses will be evaluated in accordance with the scoring table set out below. Each response will be marked out of a possible score of 10. The scoring will be based on the general principles and descriptions shown in the table below. A Tender must score 4 or above on each response otherwise it may be rejected.
55. Scoring table - Zero to 10 Marking Scheme

Score	Rating	Criteria for Awarding Score
0	Totally Unacceptable	No response or response completely fails to address all of the Council's requirements
1	Unacceptable	Very limited or vague response which fails to address key areas or meet key Council requirements, or the response received contains a large number of weaknesses or omissions in a majority of aspects
2	Poor	Limited or vague response that only meets some of the key Council requirements but with numerous material weaknesses or omissions and the Council has serious doubts about aspects of the response which gives rise to serious concerns, or inadequate information has been provided.
3	Unsatisfactory	The response addresses a number of key Council requirements but is unsatisfactory in a number of material

		respects. The proposal contains some material weaknesses or omissions giving the Council some concerns
4	Fair	The response generally meets key Council requirements but with some aspects giving the Council a concern due to either being incomplete or contain minimal material weaknesses or omissions, or deviate from a Council's requirement that is necessary in at least one aspect
5	Satisfactory	The response addresses majority of key Council requirements and is generally satisfactory but does not demonstrate clear strengths or includes noticeable weaknesses by including generic or general statements
6	Generally Good	The response is generally good in all material respects but does contain some minor weaknesses or omissions. The proposal does, however, have at least one clear strength.
7	Strong	The response is of a good quality in all respects with good concepts and approaches but contains few minor weaknesses or omissions with a clear strength in a key area.
8	Very Good	High quality response with clear, coherent and high-quality proposals that present a fully workable response with clear strengths in key areas, and any minor weaknesses or omissions which may be present in the response may be acceptable as offered
9	Outstanding	Very high-quality example response with outstanding features in all areas. A very strong response overall with no weaknesses or omissions that has addressed all requirements in extensive details but with limited or no value solutions or added innovations.
10	Excellent	An outstanding thorough response addressing all requirements in extensive detail, providing confidence all requirements will be met in full, with thought through value solutions and added innovation.

### Timetable

56. Detailed below is an estimated timetable of the procurement process with the award of the construction contract being dependent on a further separate approval to release further project funding.

Cabinet approval of procurement strategy	06 June 2022
Full Council Report	13 July 2022
Issue Expression of Interest (EOI) & Sifting Brief	13 June 2022
Deadline for submission of Expression of Interests (EOI)	4 July 2022
Evaluate EOI with TAP, Conclusion of Sifting (Shortlisting) Stage	Late July 2022
Issue of Tender documents	1 August 2022
Closing date for submissions & commence evaluation of tenders	10 October 2022
Tender approval report prepared by evaluation team	End November 2022

Cabinet Member (Award)	December 2022
Contract engrossment	February 2023
Contract Commencement date and site possession	March 2023
Start on Site the GLA funding trigger event	31 March 2023

### Selection and Award Criteria

57. In accordance with the council's CSOs and PCR 2015 Regulation (67), the contract will be awarded on the basis of the Most Economically Advantageous Tender (MEAT) using a quality to price ratio of: 60:40 in recognition of the complexity of the construction and the need for an operational net-zero carbon development. This percentage split between price and quality is permitted under the A2Dominion Framework and is in line with standard ratio of 60:40.
58. In evaluation of price submissions, the lowest priced tenderer will receive 40% and the remaining tenders will be scored proportionately to the lowest price. Tenders will be evaluated in accordance with the following criteria:

Element	Weighting	Scoring basis
Price	40%	Lowest price submitted will receive 40% and the remaining submissions will be scored in accordance with their difference from the lowest price as follow:  Score = Lowest Price / Bidder Price x 40%
Quality	60%	Quality scoring will be carried out in accordance with the Framework's terms and weighted as follow:  Score = Scored Marks Available x 60%  Social value evaluation will form part of the quality and weighted at 17% of the 60% quality to account for an overall weight of 10%.

59. Quality evaluation will incorporate sub-elements that will be scored and weighted as follow:

Quality sub-categories	Weighting
Experience	10%
Interview	5%
Project delivery/ approach / programme / Logistics / Resources	28%
Social Value	17%
TOTAL	60%

60. In accordance with council's requirements, Social Value will account for 10% of the overall scoring (17% of the 60% quality assessment).
61. A Mid-tender interview with each tenderer will be evaluated and scored as part of the quality evaluation, where each tenderer will be asked the same questions.

Interview question scoring may involve follow up questions to clarify responses if required.

62. The council will not bind itself to accept the lowest submission or any tender/submission and reserves the right to accept the whole or any part of any Tender submitted.
63. The council will also reserve the right to seek clarifications before concluding the evaluation stage and where the pricing of a Tender seems abnormally low the Council reserves the right to reject the Tender and exclude it, so it does not affect scoring.
64. The technical specifications, including levels of indemnity and insurances are currently being finalised by officers.
65. The scores awarded to each tender for the Quality and Price elements of the evaluation will be added together to establish the MEAT, which is the tender with the highest combined score for price and, quality.

**Tender Appraisal Panel (TAP):**

66. A Tender Appraisal Panel (TAP) will be set up in accordance with Contract Standing Orders to oversee the procurement process and evaluate tenders. TAP will include representatives from the Council's Procurement Team, the Development Team and the Regeneration Team supported by external professional consultants led by the council's lead consultants on this project Faithful + Gould. TAP will manage the procurement process including expression of interest, sifting and the launching of the mini-competition and the issuing of the full ITT documentation. In addition, TAP will manage and oversee tender clarifications, evaluation, and contract negotiation and award.
67. TAP aspires to involve representatives of residents in Aintree Estate where possible to participate in the procurement and selection process on an advisory basis. Exact roles and responsibilities of residents will be coordinated and agreed directly with the residents to ensure they are empowered to co-produce the development.
68. In accordance with the council's Contract Standing Orders all evaluation panel meetings will be chaired by the Head of Procurement, or a delegated (procurement) officer.

**LOCAL ECONOMY & SOCIAL VALUE**

69. It is the council's policy that all contracts let by the council with a value above £100,000 commit to social value contributions that are additional to the core services required under the contract.
70. Paragraph 51 in this appendix describes how social value contributions will be scored as part of the mini competition; that a 10% weighting of the total score will be included in the Quality and Sustainability category of the scoring criteria.
71. The Contract Standing Orders refer to the Social Value Policy which, in turn, states that any bid that does not commit to social value contributions amounting

to at least 10% of the price proposed will be excluded from the competition. Paragraph 50 in this appendix proposes a means of mitigating the risk of bidders being excluded from the mini competition that is commensurate with the value of the contract.

72. Paragraph 51 refers to bespoke measures that are more suited to construction works. These tailored measures are based on the National Social Value Themes, Outcomes and Measures (“TOMs”) adopted by the council and have been pared down and refined to ensure that they are not double-counted with economic development contributions that will be sought through planning obligations (S106) and also align with council strategies including the Industrial Strategy.
73. As part of the council’s social value process, quantitative and qualitative proposals for social value should be required in bids and both elements scored. This process is described in paragraph 52. A template for conditions to be included in the Invitation To Tender is available.
74. Social value measures committed by the winning bidder should be included as conditions in the contract agreement with financial remedies sought for non-delivery. It is advised that the winning bidder contact the Economic Development team to help them design a detailed delivery plan for the agreed measures. Council services are available to support the winning bidder plan, deliver and measure social value contributions.

*Implications completed by: Paul Clarke, Economic Development Officer 2 March 2022*

## **RISK ASSESSMENT AND PROPOSED MITIGATIONS**

75. In producing this report, procurement risks and their control measures were considered and implemented.
76. The key risks identified are as follows:

<b>No.</b>	<b>Identified risk</b>	<b>Likelihood</b>	<b>Risk Control/Mitigation measure</b>
1	Insufficient interest from framework providers in the tender which results in no bids.	Low	The council carried out soft market testing in September 2021 & March 2022, and this revealed that there is sufficient market interest and capacity. The council will also develop a procurement brief that is sufficiently detailed and clear to encourage wide contractor participation.
2	Procurement does not achieve required competitiveness and does not provide value for money.	Low	Market engagement has established a clear interest and appetite for this development and to ensure engagement of all contractors in the Lot, the tender pack will be reviewed for simplicity and clarity. Use of bespoke Social Value measures that are more suited to construction works
3	Construction market inflation and	Medium	This risk is managed and mitigated with cost consultants’ and where possible simplification of some aspects of

	the period for which tenders might remain valid.		detailed design to ensure design buildability retain costs within budget envelope.
4	Contractor becomes insolvent or no longer has the capacity to deliver scheme	Medium	While the likelihood of this risk is low, the potential impact might be significant depending on construction stage.  Before a contract is awarded, robust financial assessments will be undertaken including independent financial and credit checks and where necessary and applicable parent company guarantees may be requested.
5	Mobilisation/ construction delayed due to unforeseen site issues	Low	Council to ensure that the internal and external resources are in place to deliver the project in a timely manner. The site has been de-risked through extensive site investigations to eliminate technical issues prior to start on site.
6	Commencing tender potentially before the granting of an implementable planning consent could result in elements of the price being based on provisional sums and so subject to change later.	High	This risk is mitigated by way of: (a) Continuously updating costing data as the design progresses; (b) Review and possibly seek design simplification and cost savings during detailed design; (c) Procure contractor under a D&B contract with client amendments, ensuring buildability is embedded into detailed design; (d) Incorporate sufficient contingency into the budget; and (e) Rigorously assess and re-evaluate impact of the construction on the contingency.
7	No tender commits to a Social Value of 10% or more	medium	This is mitigated against by inviting tenderers to Social Value commitments that are more aligned with council policies so as to maximise Social Value from the contract to be awarded.

## CONTRACT MANAGEMENT

77. The contract will be managed by a project team supported by a team of professional services appointed under a separate procurement strategy for the whole life cycle of the development.
78. A suite of KPI's will be used to monitor, measure and report on the performance of both principal construction contractor and sub-contractors. Example of KPI's that might be used to monitor performance:
- a) Meeting or exceeding programme expectations.
  - b) Design Development within the requirements of the Client Brief
  - c) Response times to client RFIs (Requests for information)
  - d) Successfully engaging and involving wider local residents and other stakeholders e.g., Considerate Constructors Scheme
  - e) Responsiveness to issues or concerns raised by residents within a defined period
  - f) Time taken to rectify defects in line with H&F repairs response times
  - g) Understanding and mitigating environmental impact, waste control, noise, water usage, dust during construction.

## **EQUALITY IMPLICATIONS**

79. It is not anticipated that the approval of this Procurement Strategy, as set out in the Recommendations, will have any direct negative impact on any protected groups, under the Equality Act 2010.
80. The outcome of an Equality Impact Assessment of the decision to proceed with the development is covered in the main report.

## **RISK MANAGEMENT IMPLICATIONS**

81. The report identifies, in the table in paragraph 76, a number of procurement-related and construction market risks, including material price instability which has arisen due to Covid-19 and post-Brexit economic conditions. Officers have set out a range of mitigations to manage these risks and will need to keep these risks under close review throughout the procurement and contract delivery phases. Officers will need to ensure that robust programme and governance arrangements are in place to oversee the scheme, including the maintenance of a programme risk register.
82. A range of competitively procured frameworks have been assessed and a preferred framework recommended by the appointed technical consultants. The proper use of suitable frameworks protects against the risk of procurement challenge and helps to enable securing value for money, which is in line with the Council's objective of being ruthlessly financially efficient.

*David Hughes, Director of Audit, Fraud, Risk and Insurance, 1 March 2022*

## **PROCUREMENT IMPLICATIONS**

83. The Procurement Strategy proposed in this report is to run a mini-competition on the A2Dominion LN3 framework. This is a viable strategy as it delivers the benefits that frameworks offer: competition between the providers that are part of the framework, a level of assurance of compliance from the setup of the framework itself, and potentially a quicker procurement than an open tender process by limiting the number of bidders. The strategy should deliver a good balance between best value and programme efficiency. The key is ensuring that the call off contract features all of the Council's bespoke requirements for this project, and the report confirms that there is sufficient flexibility for this within the A2Dominion LN3 framework.

*Implications completed by: William Shanks, Head of Contract Governance (Economy), 0781 858 1911, 18/02/22*

## **CLIMATE AND ECOLOGICAL EMERGENCY IMPLICATIONS**

84. Climate and ecological impact from the decision to proceed with this development is covered in the main report.

## **APPENDIX 2 – USE OF SECTION 203**

### **The Council's statutory powers:**

1. Powers to override rights over land acquired or appropriated for planning purposes were previously provided in section 237 of the Town and Country Planning Act 1990 ("1990 Act"). These have more recently been replaced by provisions in section 203 of the Housing and Planning Act 2016.
2. Under Section 203 the Council has powers that would allow the Development to proceed, notwithstanding that it would interfere with the rights to light of neighbouring affected properties.
3. Under Section 204 there is a liability to pay compensation for any interference with a relevant right or interest or breach of a restriction that is authorised by Section 203. The compensation is calculated on the same basis as compensation payable under the Compulsory Purchase Act 1965.
4. Section 226 of the 1990 Act provides that a local authority (subject to the authorisation of the Secretary of State) has the power to acquire compulsorily any land in their area, if it considers that this will facilitate the carrying out of a development, redevelopment, or improvement on or in relation to the land; or is required for a purpose which is necessary to achieve in the interests of the proper planning of an area.
5. Under Section 226(1A) of the 1990 Act, a local authority may not acquire land compulsorily, for the purpose facilitating the carrying out of development, unless they consider that the development is likely to contribute to the achievement of one or more of the following objectives:
  - a) the promotion or improvement of the economic well-being of their area;
  - b) the promotion or improvement of the social well-being of their area;
  - c) the promotion or improvement of the environmental well-being of their area.
6. Section 227 of the 1990 Act provides that the Council may acquire by agreement any land which it requires for any purpose for which it may be authorised to acquire land under Section 226 of the 1990 Act.
7. Section 246 of the 1990 Act provides, in this case, that reference to the acquisition of land for planning purposes is a reference to the acquisition of it under section 226 or 227 of the 1990 Act.
8. The Council will need to be satisfied that there is a compelling case in the public interest for the engagement of the appropriation powers and that their use is proportionate and justified, notwithstanding the interference with the private rights of the landowners affected.

### **Section 203 Housing and Planning Act 2016**

9. Section 203 of the 2016 Act applies where the Council acquires or appropriates land for planning purposes so that easements and third-party rights (including rights of light) may be overridden pursuant to those provisions by development of that land (provided it is carried out in accordance with planning permission).
10. Section 203 operates to translate the right of an owner of an affected property or interest from an injunctable right to an entitlement to compensation only. The compensation is assessed against compulsory purchase compensation principles based on the diminution of the value of the affected property because of the interference with the right.
11. The protection provided by Section 203 applies both to the Council, were it to undertake the Development, and to any third-party deriving title to the Site from the Council.
12. For Section 203 of the 2016 Act to be utilised and come into effect, the development must receive a planning permission and the Council must hold an appropriate interest in the land, the freehold in this case. Additionally, under section 227 of the 1990 Act, the council may acquire land by agreement for planning purposes where that acquisition is for a purpose for which the land could be compulsorily acquired. To do so the Council would need to be satisfied that the circumstances set out in Section 226(1A) of the 1990 Act are met – in summary, that acquiring the Site would facilitate the carrying out of the Development and that the Development in question would contribute to the economic, social, or environmental well-being of the area.
13. It is the opinion of Officers that, for the reasons set out in this report, the Site, if it wasn't owned by the Council, could be acquired compulsorily under Section 226 to facilitate carrying out of the Development assuming such development was to be granted an implementable planning permission, and that such Development would advance all three objectives identified at section 226(1A).
14. Subject to satisfying the relevant requirements, the appropriation may allow provisions of Section 203 of the 2016 Act to be engaged. But for this to happen, it is necessary to consider whether the facilitation of the Development would justify an interference with the rights of third parties. In making that decision regard should be had to the advice and guidance contained in the current DLUHC Guidance on Compulsory Purchase (October 2015). Fundamentally, the decision to engage Section 203 should only be made where it is necessary, there is a compelling case in the public interest and the Council should be certain that the use of these powers being exercised justify interfering with the human rights of those whose human rights would be affected. Particular consideration should be given to the provisions of Article 8 and Article 1 of the First Protocol to the European Convention on Human Rights.
15. The explanatory note relating to the 2016 Act is helpful in indicating the underlying objective of the provisions. Regarding section 203 powers it provides guidance that the requirement (section 203(2)(c)) that the authority 'could' acquire the land compulsorily for the purposes of the building work was intended only to require that the authority had the relevant enabling powers, not that on the facts of the case a compulsory purchase order would be confirmed for the compulsory acquisition of the land.

16. The return of the Site appropriated by the Council for planning purposes to be held for housing purposes will also need to ensure that the requirements of section 233(1)(a) of the 1990 Act are met. Section 233(1)(a) authorises such disposal providing that the Council is satisfied that it is expedient to secure the best use of the land. A decision to appropriate the site for Planning Purposes would need to be based on a full reconsideration of all elements in paragraph 8 including a reconsideration of how the Council's obligations under section 233(1)(a) may be satisfied in this case.

### **Use of Section 203 – Considerations**

17. The effect of Section 203 is to allow beneficial regeneration to take place without the risk of injunction being granted to prevent the development from being carried out. However, it is recognised that this can involve the interference with human rights – in particular, the right to peaceful enjoyment of possession and the right to respect for private and family life and home.
18. Considering this, Officers will consider best practice and the approach adopted by this local authority and other local authorities to help any decision on the use of statutory powers to override easements and rights in that case was appropriate, reasonable, and necessary.
19. These considerations are set out below:
  - a. **Consideration 1:** The use of statutory powers is required in that:
    - I. The infringements cannot reasonably be avoided;
    - II. The easements to be interfered with cannot reasonably be released by agreement with affected owners;
    - III. The Development is prejudiced due to the risk of injunction and adequate attempts have been made to remove the injunction risks.
  - b. **Consideration 2:** The use of statutory powers will facilitate the carrying out of the Development;
  - c. **Consideration 3:** The Development will contribute to the promotion and improvement of the economic, social, or environmental well-being of the area and therefore be in the public interest;
  - d. **Consideration 4:** The benefits of the Development could not be achieved without giving rise to the infringements of the identified rights;
  - e. **Consideration 5:** Is it in the public interest that the Development is carried out?
  - f. **Consideration 6:** Is the public interest to be achieved proportionate to the private rights being infringed by the action of Section 203?

### **Criteria for application of a successful Section 203**

20. The following criteria apply in relation to the application of Section 203 powers:

**Considerations 1 and 2:**

21. The development of the Site, in line with a granted planning permission, would result in infringement of, or interference in, one or more rights or interests as defined in Section 205(1) of the 2016 Act or breach of a restriction or covenant on or affecting the land which cannot be reasonably released or resolved. Voluntary agreements with those whose rights are affected must be sought and the council must seek such agreements, however, without certainty of extinguishment of such rights within reasonable time, the Development might not proceed.
22. The engagement of Section 203, at the appropriate time, will facilitate the Development which may not proceed without the engagement of Section 203. Without this the Development will be at risk of claims for injunctive relief from rights holders relating to actual or anticipated interference with easement rights or covenants.
23. Lengthy legal proceedings initiated by any affected party may severely affect the viability and deliverability of the Development as a whole specially as part of the funding for the Development is time critical.

**Considerations 3 to 6:**

24. The successful application of Section 203 requires the establishment of a compelling public interest, which in the case of this Development will bring about a material improvement of the social, environmental and economic wellbeing of the area while at the same time mitigating the impact of the additional homes on surrounding streets through the development being car-free zone. Not developing the Site would be a waste of opportunity to redevelop part of Aintree Estate that two high rise blocks formally occupied.
25. Importantly, officers would need to consider and balance the significant public benefit to be gained from the Development against the interference with the private rights of the landowners affected by the use of the delegated powers. Conclusion on the use of Section 203 would need to be proportionate and justified demonstrating a public benefit that significantly outweighs potential interference in an individual's rights including human rights and in particular Articles 1 and 8 of the ECHR. Affected landowners will need to be compensated properly and on a timely basis, in line with statutory guidance.

**The Nature of the Third-Party Rights Affecting the Land**

26. A third-party right is a right enjoyed by a third party over land owned by another party, one type of such third-party right, being a right of light. A right of light is a long-established legal right which can be acquired by a property by having access to, and use of, light crossing another property, for 20 years or more, after which the right is "*deemed absolute and indefeasible... unless it... was enjoyed by some consent or agreement expressly made or given for that purpose by deed*

or writing”<sup>1</sup>. It is anticipated that the Development will infringe the rights of light of a number of neighbouring properties in varying degrees of magnitude.

27. Any interference with a property’s right of light may be prevented by an injunction granted by the Courts. Typically, developers will seek to avoid this risk by reaching private settlements with those whose properties are affected so as to release rights of light and permit interference with the rights, subject to payment of compensation. If an agreement cannot be reached, affected parties might be able to delay or prevent a development from proceeding by threatening, or seeking, an injunction.
28. Appropriation of land for planning purposes translates the right of an owner of an affected property or interest from once enforceable by an injunctable right to an entitlement to compensation only. The compensation is assessed against compulsory purchase compensation principles based on the diminution of the value of the affected property because of the interference with the right of light.

### **Legal power available to the Council to procure appropriate insurance**

29. The Council’s actions are susceptible to third party challenge, and as described above the Council may seek to insure against any costs and liabilities arising from a challenge, if one were to be made, so as to indemnify and limit the Council in respect of all costs and liabilities arising from and linked to appropriation for planning purposes of this site.
30. The Council has the power to enter into any Deeds of Indemnity or insurance required under a range of powers which include:
  - Section 111 Local Government Act 1972 - which gives powers to local authorities to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions; and
  - Section 1 Localism Act 2011 - which contains the local authority’s general power of competence and states that a local authority has power to do anything that individuals generally may do.
31. The Council should also be mindful of its best value duties in Section 3 of the Local Government Act 1999 which states a best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

### **Affected Third Parties**

32. The exact number of affected parties and extent of effect may only be ascertained on the granting of an implementable planning decision. And in any case, a variation of the design of the Development that may potentially mitigate impact on third parties would be considered so long as such variation would not

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<sup>1</sup> The Prescription Act 1832, section 3; Claim to the use of light enjoyed for 20 years

result in a significantly and materially different development that diminishes or eliminates the public benefits arising from this proposed Development.

33. On identification of degree and extent of impact on third parties, the council will seek voluntary settlements by agreement. However, it is anticipated that in most instances the level of interference may be negligible and not noticeable and, in some instances, may have a noticeable positive impact.

## **EQUALITY IMPLICATIONS**

34. In deciding to proceed with the acquisition of the Site for planning purposes the council must pay due regard to its Public Sector Equality Duty (PSED), as set out in section 149 of the Equality Act 2010 (the "2010 Act"). Further information regarding how the PSED should be discharged is set out at Appendix 3.
35. While currently there are no anticipated direct negative implications (at this stage) for persons with protected characteristics, under the Equality Act 2010, by the approval of recommendations outlined in this report, any future decision on the appropriation for planning purposes would need to carefully consider potential impact.

## **RISK MANAGEMENT IMPLICATIONS**

36. There may well be compelling reasons for the council to engage Section 203 and enable the Development to proceed: significant benefits that would be realised locally, at a time when the national economy has been severely affected following the pandemic. The Development may also bring about improvement of the social, environmental and economic wellbeing of the area whilst at the same time meeting the acute housing needs of the borough.
37. However, risks and mitigations associated with the potential use of powers to appropriate the Site for planning purposes would need to be considered at the point the use of the delegation is being considered. This is because the use of these powers is dependent on the development to be facilitated receiving a planning permission.
38. Accordingly, risks and mitigations may only be considered once the Development has received an implantable planning decision and the extent and nature of the impact of the development has been ascertained.

*David Hughes, Director of Audit, Fraud, Risk and Insurance, 1 March 202*

## **APPENDIX 3 - PUBLIC SECTOR EQUALITY DUTY**

The Public Sector Equality Duty provides (as far as is relevant) as follows:

1. A public authority must, in the exercise of its functions, have due regard to the need to:
  - eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard to the need to:
  - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
  - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
3. Case law has established the following principles relevant to compliance with the PSED which Council will need to consider:
  - a. Compliance with the general equality duties is a matter of substance, not form.
  - b. The duty to have "due regard" to the various identified "needs" in the relevant sections does not impose a duty to achieve results. It is a duty to have "due regard" to the "need" to achieve the identified goals.
  - c. Due regard is regard that is appropriate in all the circumstances, including the importance of the area of life of people affected by the decision and such countervailing factors as are relevant to the function that the decision maker is performing.
  - d. The weight to be given to the countervailing factors is in principle a matter for the authority. However, in the event of a legal challenge it is for the court to determine whether an authority has given "due regard" to the "needs" listed in Section 149 of the 2010 Act. This will include the court assessing for itself whether, in the circumstances, the local authority has given appropriate weight to those "needs" and not simply deciding whether the authority's decision is a rational or reasonable one.
  - e. The duty to have "due regard" to disability equality is particularly important where the decision will have a direct impact on disabled people. The same applies for other protected groups where a decision could directly affect them.

## APPENDIX 4 – EQUALITY IMPACT ASSESSMENT

Detailed Equality Impact Assessment (EIA) is a live document that will continuously be reviewed and updated when necessary, including following procurement when the council is clear on construction programme, significant temporary works that may give rise to equality impact and any phasing completion.

### Hammersmith & Fulham Equality Impact Analysis Tool H&F Equality Impact Analysis Tool

Overall Information	Details of Full Equality Impact Analysis
Financial Year and Quarter	2022 (Quarter 2)
Name and details of policy, strategy, function, project, activity, or programme	<p><b>Hartopp and Lannoy point development</b></p> <p>The construction phase may well have a substantially different impact on those with protected characteristics than the impacts of the development once completed. The impact of the construction phase is anticipated to primarily affect immediate neighbours, visitors, residents, and employees.</p> <p>The construction contractor will be obliged to observe LBHF policies on Equality and Diversity or to provide their own policies for approval as part of the tender process prior to appointment. The construction contractor may also be asked to sign up to a code of conduct to mitigate against impact of its work on persons with protected characteristics.</p> <p>Upon appointment the main contractor will be required to produce a Construction Management Plan and a site waste management plan – that will control site logistics and ensure that locals are disturbed as little as possible by the construction works traffic. It is expected that the hours of work on site will be controlled by planning condition.</p>

The completed development may have a substantial positive impact or at the very least no negative impact on some or all persons with protected characteristics.

The scheme will deliver 134 homes with 112 affordable with the breakdown as follows:

Description	Social Rent	Shared Ownership	Private Sale	Total
1 bed 2-person flat	25	22	11	58
1 bed 2-person wheelchair (WCH) flat	3	0	0	3
2 bed 3-person flat	11	14	5	30
2 bed 4-person flat	5	0	0	5
2 bed 4-person WCH flat	6	5	5	5
3 bed 5-person maisonettes	12	4	2	17
<b>TOTAL</b>	<b>67</b>	<b>45</b>	<b>22</b>	<b>134</b>

The completed development is anticipated to have a positive impact on residents with protected characteristics and others who are of low- and mid-income households through the delivery of inclusive development that includes significant number of affordable homes.

A separate EQIA was undertaken by the Council as part of the decision to demolish the blocks. And so, the scope of this EQIA assessment is primarily to consider and assess the impact from Hartopp & Lannoy development over two distinct phases: construction phase and the completed development.

Lead Officers

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Date of completion of Initial EIA

Initial assessment completed on 9<sup>th</sup> March 2022

Section 02	Scoping of Full EIA		
Plan for completion	The EIA scope starts immediately through to anticipated completion of the final construction phase due circa August 2025, with potential sectional completions delivering some of homes prior to that date.		
Analyse the impact of the policy, strategy, function, project, activity, or programme	The Council is minded of its Public Sector Equality Duty (PSED). In particular the Council recognises the distinct impact of the two phases of the development.		
	<b>Protected characteristic</b>	<b>Borough Analysis</b>	<b>Impact:</b> Positive (+), Negative (-), Neutral (N)
	Age	<p><b>Construction phase (including pre-construction handover stage):</b> The site is currently hoarded secured by remote CCTV system and a 24-hour emergency response arrangement in place. Nevertheless, empty or inactive construction sites by their nature attract the curiosity of younger people who may attempt to enter and explore them. To mitigate against this, continuous security is to be maintained especially during the period before the construction contractor takes possession of the site. The impact is anticipated to be neutral but only on the full implementation of identified mitigations.</p> <p>The Council's Construction Site Noise and Dust Pollution policy will mitigate against impact of the construction phase, but it mainly focuses on issues around noise, vibration and dust. It will nevertheless deal with the wider impact of the construction as part of the approval of the Construction Phase Plan which will form part of a pro-active and collaborative approach backed up by active monitoring and enforcement to</p>	<p>N</p> <p>N</p>

		<p>ensure compliance so as to control or eliminate any negative impact from the construction site on local residents and businesses</p>		
		<p>In addition to planning requirements, the council will set out clear contractual expectations on the construction contractor as part of its Employers Requirements to ensure the contractor engages with neighbouring residents / stakeholders in accordance with the best practice requirements.</p>	N	
		<p>The construction phase is anticipated to have a positive impact on younger and unemployed residents who will be offered apprenticeships, employment and training during the construction phase. The anticipated positive impact on younger people is in acknowledgement of younger people experiencing higher unemployment rate in comparison to all other working age groups. Offer of apprenticeships, employment and training will be a significant part of the contractor's social value offering or S106 obligations.</p>	+	
		<p>Due to the location of the site in the middle of a residential area, it is possible that noisy works, even though they may still be within statutory limits, they may have a disproportionately negative impact on younger people especially during exams and revision times as the construction phase is anticipated to last more than 2.5 years.</p>	-	
	<p>The contractor would be required to work with residents around the site and organise work on site in close liaison with residents to mitigate disproportionate impact especially during exams and revision times.</p>	+		

		<p>Temporary closure of some footpaths and access routes alongside the site due to UKPN or other statutory undertakers works often creates barriers that disproportionately negatively impact older people, who are more likely to have age-related impairments. Alternative routes will be accessible, including sufficiently wide routes and appropriately designed and implemented temporary dropped kerbs, and will be well signposted. The impact is anticipated to be neutral but only on the full implementation of identified mitigations.</p>	N	
		<p><b>Completed Development Phase</b></p> <p>The completed development will have a positive impact on households and individuals with protected characteristics and others who are of low- and mid-income households by delivering affordable housing.</p> <p>There will be a disproportionate positive impact on younger households because:</p> <ul style="list-style-type: none"> <li>○ Younger households have a proportionately lower income, and this development will disproportionately benefit them by delivering affordable housing.</li> <li>○ Younger households may require greater assistance to benefit from increased housing options and this development by offering a slightly higher proportion of 1-Bed properties will help meet the need of this group and have a disproportionate positive impact.</li> </ul>	+	

		<p>All units will be either wheelchair accessible / adaptable (M4(3)) or accessible and adaptable (M4(2)), which will disproportionately benefit older people, who are more likely to have age-related impairments.</p> <p>There will be an inclusively designed estate amenities offering that will disproportionately benefit older people, who are more likely to have age-related impairments.</p> <p>New amenities will include play space for children and young people.</p> <p>Estate facilities provided will be inclusively designed, disproportionately benefitting older people, who are more likely to have age-related impairments.</p> <p>Lighting within the estate will be improved, creating a greater sense of safety, which will benefit older people and young people, who may feel more vulnerable when outside in the dark.</p>		
	Disability	<p><b>Construction Phase</b></p> <p>Temporary closure of some footpaths alongside the site due to UKPN or other statutory undertakers works often creates barriers that disproportionately negatively impact disabled people. Closure will only take place once alternative routes that are accessible, sufficiently wide and appropriately designed and installed with appropriate signpost are made available.</p>	N	

	<p>Specific obligations on the contractor to carry out required health and safety measure in relation to temporary works will be included in the contract with the construction contractor. Works will be monitored, inspected and overseen by council's consultants.</p> <p>The production of dust during construction phase will create a disproportionate negative impact on disabled people with breathing conditions. Implementation of the council's Construction Site Noise and Dust Pollution policy which seeks to control level of dust by its inclusion of enforceable requirements on the contractor to implement dust suppression measures will help mitigate against this issue.</p> <p>The impact is anticipated to be neutral but only on the full implementation of identified mitigations.</p>		
	<p><b>Completed Development Phase</b></p> <p>All units and their approaches will be either wheelchair accessible / adaptable Building Regulations ADM (M4(3)) or accessible and adaptable (M4(2)) as a minimum, which will disproportionately benefit disabled people.</p> <p>Accessibility and inclusiveness of the design have been some of the core principles underpinning the design brief from the start. All buildings, approaches and estate amenities will meet the requirements of required planning policy and design standards. including Building Regulations ADM and BS 8300.</p>	+	

		<p>In addition to, and separate from the Section 105 consultation, the Council has considered the impact of the development on estate amenities including parking which might have on residents with “protected characteristics” (in this context the most obvious group being disabled persons reliant on their (or their carer’s) cars in order to get about and families with young children). Reasonable adjustments can be made to assist tenants with protected characteristics and a sufficient number of parking spaces in an otherwise car-free development have been retained for the sole use of residents of existing blocks. New residents in the new blocks will have access to up to 13 disabled parking accessible once completed.</p> <p>There will be an inclusively designed estate amenities offering that will disproportionately benefit disabled people. New amenities will include play space for children and young people, which will be designed to be inclusive and have specific inclusive play pieces.</p> <p>Estate facilities provided will be inclusively designed, disproportionately benefitting disabled people. Households with one or more disabled person in have a proportionately lower income, and this development will also disproportionately benefit them by delivering affordable housing.</p>	N	
	Gender reassignment	<p><b>Construction Phase</b></p> <p>The development is not anticipated to have any impact on person with this protected characteristic during this stage</p>	N	

		<p><b>Completed Development Phase</b></p> <p>Lighting within the estate amenities will be improved, creating a greater sense of safety, which will benefit trans and non-binary people, who may feel more vulnerable when outside in the dark due to the risk of hate crime.</p>	+	
	Marriage and Civil Partnership	<p><b>Construction Phase</b></p> <p>The construction stage is not anticipated to have any impact on person with this protected characteristic.</p>	N	
		<p><b>Completed Development Phase</b></p> <p>The completed development is not anticipated to have any impact on person with this protected characteristic.</p>	N	
	Pregnancy and maternity	<p><b>Construction Phase</b></p> <p>An indirect effect may arise from William Close which is an estate road that provide the sole level vehicle access to some housing association properties. Maintaining 24 vehicular access to these properties will need to be key criterion in the redevelopment programme.</p> <p>Temporary closure of some footpaths alongside the site due to UKPN or other statutory undertakers works often creates barriers that disproportionately negatively impact persons with this protected characteristic. Closure will only take place once alternative routes that are accessible, sufficiently wide</p>	N	

	<p>and appropriately designed and installed with appropriate signpost are made available.</p> <p>Specific obligations on the contractor to carry out required health and safety measure in relation to temporary works will be included in the contract with the construction contractor. Works will be monitored, inspected and overseen by council's consultants.</p> <p>The production of dust during construction phase will create a disproportionate negative impact on persons with this protected characteristic with breathing conditions. Implementation of the council's Construction Site Noise and Dust Pollution policy which seeks to control level of dust by its inclusion of enforceable requirements on the contractor to implement dust suppression measures will help mitigate against this issue.</p> <p>The impact is anticipated to be neutral but only on the full implementation of identified mitigations.</p>		
	<p><b>Completed Development Phase</b></p> <p>There will be an inclusively designed estate amenities that will disproportionately benefit new mothers, who are more likely to be using pushchairs.</p> <p>Estate facilities will also include seating spaces and playground for younger children and so disproportionately benefit new mothers.</p>	+	

	Race, Religion or belief (including non-belief)	<p><b>Construction Phase</b></p> <p>The construction stage is not anticipated to have any impact on person with this protected characteristic.</p>	N	
		<p><b>Completed Development Phase</b></p> <p>Some BAME communities have a proportionately lower income, and this development may disproportionately benefit them by delivering affordable housing.</p> <p>Lighting within the estate amenities will be improved, creating a greater sense of safety, which will benefit BAME people and people from some religious communities, who may attend religious places very early in the morning or late in the evening and so may feel more vulnerable when outside in the dark.</p>	+	
Sex	<p><b>Construction Stage</b></p> <p>Historically, construction sites were synonymous with inappropriate behaviour including female passers-by receiving un-wanted and inappropriate attention. Additionally, during the construction stage some site workers may operate at heights that may give rise to privacy issues. This is not helped by the fact that the construction industry is one of the most gender-segregated or male dominated industry.</p> <p>The council will set clear expectations on the contractor that are contractually enforceable including taking immediate steps to report and investigate any incident of an</p>	N		

	<p>unacceptable conduct of its employees or sub-contractors and ensure the site is registered under, and operate in accordance with, the considerate contractor scheme.</p>		
	<p><b>Completed Development Phase</b></p> <p>The development is not anticipated to have any negative impact on persons with this protected characteristic. It may have indirect positive impact through the provision of family sized homes to families in overcrowded accommodation to alleviate overcrowding and sibling of different sexes sharing rooms.</p> <p>There will be an inclusively designed estate amenities offering that will disproportionately benefit women, who on average spend more time taking on caring responsibilities for their children and / or older relatives than men.</p> <p>Estate facilities provided will be inclusively designed, disproportionately benefitting women, who on average spend more time taking on caring responsibilities for their children and / or older relatives than men.</p> <p>Improved Estate play facilities will disproportionately benefit women, who on average spend more time taking on caring responsibilities for their children and / or older relatives than men.</p> <p>Lighting within the estate amenities will be improved, creating a greater sense of safety, which will benefit women, who may feel more vulnerable when outside in the dark.</p>	+	

	Sexual Orientation	<b>Construction Stage</b>  The construction stage is not anticipated to have any impact on person with this protected characteristic	N
		<b>Completed Development Phase</b>  Lighting within the estate amenities will be improved, creating a greater sense of safety, which will benefit LGBTQIA+ people, who may feel more vulnerable when outside in the dark due to the risk of hate crime.	+

Section 03	Analysis of relevant data Examples of data can range from census data to customer satisfaction surveys. Data should involve specialist data and information and where possible, be disaggregated by different equality strands.
Documents and data reviewed	Parking data was used to establish the number of parking spaces to be retained. Information and data obtained from the Resident Steering Group to establish the development proposal
New research	New research maybe required to establish or update Local Lettings Plans prior to completion of the development.

Section 04	Consultation
Consultation	The development was co-produced with residents and additionally, a S105 consultation was undertaken about the new amenities, parking and shared spaces.
Analysis of consultation outcomes	Statement of Community Involvement has been prepared as part of the planning application which demonstrates co-production through from start.

Section 05	Analysis of impact and outcomes
Analysis	<p>The sections above refer to mitigation procedures adopted where a negative impact could be identified.</p> <p>Mitigations identified in this assessment must be adopted to mitigate against identified risks. Additionally, regular review of impacts and mitigations adopted must take place that considers and analysis realisation of foreseen impacts, rise of any unforeseen impact as well as the success of mitigations adopted. The outcome of these reviews would be incorporated into this Equality Impact Assessment.</p> <p>Based on this initial assessment, the project may proceed subject to the recommendation below as no significant disproportionate negative impacts was identified.</p> <p>Recommendations: A clear mitigation action plan to be created specifying a detailed monitoring process to record successful implementation of mitigations identified in this assessment and track actions taken as well as any unexpected or new disproportionate impact identified and any new mitigation that may need to be implemented.</p>
Section 06	Reducing any adverse impacts and recommendations
Outcome of Analysis	<p>As part of the Employers Requirements, the construction contractor must retain, or not interfere with, the 24-hour access through Williams Close and maintain and enforce security over the construction site to prevent any unauthorised access to the site, any potential mitigation strategies post completion will be reviewed and agreed by Officers during the construction stage.</p>

## APPENDIX 5 – SECTION 105 CONSULTATION

Summary of Section 105 consultation.

1. The table below provides a summary of the issues consulted on; responses, if any, and the council's considered view.
2. The development being co-produced with residents may explain why no resident had responded to the consultation. This lack of response including the council not receiving a single opposing response under the consultation is evident of the overwhelming support the development has received or at the very least, residents not having any concerns views or objections to the proposals.
3. Nevertheless, the council being mind of its duty to its residents has considered the issues and where required has devised mitigations to limit and control any adverse effect the changes may have on secure tenants in particular and wider resident groups.

Issue	Comments	Council's response
Residents were asked if they supported the proposed changes to parking amenities that will see 16 new parking spaces retained exclusively for the use of residents in existing blocks.	Even though no response was received under this consultation, through the co-production process residents have expressed either a strong support of, or no concerns about, the proposed development.  <b>Future demands</b> However, the council being minded of its duty has considered whether the 16 parking spaces are able to meet future demands on parking.	Co-production and working in accordance with council's value of doing things with residents has ensured this development receives residents support evident by the no S105 responses being received. <b>Future demands</b> Residents in existing blocks will continue to have the option of street parking on Pellant Road as well as other nearby roads and if demand driven by blue badges holders was to exceed supply, blue badge holders and families with young children may be prioritised with spill over met by Pellant Road and nearby roads.
Residents were asked if they supported a re-designed estate communal landscaping.	Even though no response was received under this consultation, residents were overwhelmingly supportive of the proposal during the co-production stage.	A redesign of the communal estate amenities will result in facilities for all age groups and extensive planting of trees that will enhance, once the development is completed, the lives of residents.
Residents were asked if they supported the creation of a new step-free access for Chasemore House.	Even though no response was received during the consultation, responses received during the co-production were supportive of a new step-free access, although the access route to this step-free access was highlighted as not as direct as it could have been for visitors of Chasemore House.	Despite no response being received during the consultation alternative redesign of the access route were considered but was deemed impractical and some redesign option was deemed not desirable as they may affect disabled parking provisions for the new blocks.
Residents were also asked how they may be affected by each issue mentioned above.	No response was received.	Even though no response was received the cumulative effect of the proposal including the changes to estate amenities would have an overwhelmingly positive effect once completed on residents of the estate.
Residents were also provided the opportunity to raise any other issue relevant to the proposal or propose any alternatives	No response was received.	