

Executive Report

Cabinet – 5 December 2023

THE LAKES ESTATE REGENERATION – CONSTRUCTION CONTRACT

Name of Cabinet Member	Councillor Emily Darlington Cabinet Member Adults, Housing and Healthy Communities
Report sponsor	Stuart Proffitt Director Environment and Property
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Exempt / confidential / not for publication	Yes – Exempt Annexes A, B and C.
Council Plan reference	21
Wards affected	Bletchley East Ward

Executive summary

This decision is to consider and approve entering the final stage of the design and build construction contract with the preferred contractor to construct Phase A of the Lakes Estate Regeneration Project. Immediately following this decision, a Special Council is asked to approve the additional borrowing requirements to enable the scheme to proceed and the contractor's appointment.

On the 13 July 2021, Cabinet approved the progression of the updated Lakes phase A regeneration project, and on 14 July 2021 Council approved the capital budget of £61,650,000. The updated scheme for Lakes Phase A consisted of affordable homes, community centre, nursery, two retail units, Warren Park and the demolition of Serpentine Court. Cabinet agreed immediate spend approval of £950,000 for fees relating to the detailed design and subsequent tendering of the works. The decision also required further submissions to Cabinet to approve the appointment of the contractor to begin construction.

The approved capital budget was intended to cover the main contractor's costs, along with the on-costs incurred by MKCC directly for consultancy, inflation, contingency, statutory payments, salaries, acquisitions, disturbance payments and internal fees.

At the time of the July 2021 Cabinet, it was anticipated that the Main Contract would be let within the year and that work would start on site in August 2022 and complete in Summer 2024. An allowance of 3% for tender price inflation up to start on site was included in the July 2021 cost plan.

As a result of changes in the world, UK, and project environment especially in terms of inflationary risk, a decision was made to change the main contract procurement strategy as contractors became more selective and risk averse in the market conditions. From discussions with the PAGABO framework and their framework contractors, we ascertained that contractors were no longer willing to enter single stage tenders, instead favouring a two stage tendering process, where the design is completed prior to them offering a fixed price offer, allowing the risk of inflationary pressures to be pinpointed more accurately against sub-contract tenders, market conditions nearer the point of start on site and against a well-developed construction programme.

On the 19 July 2022, Cabinet approved the first stage appointment of the preferred contractor, Graham Construction, under a Pre-Construction Services Agreement (PCSA) to complete the design and provide a lump sum offer for the new build construction. A key benefit of the two-stage approach to procuring a preferred contractor for the project was to draw on the contractor's market and supply chain expertise and purchasing power in the completion of the design and ensure a best value solution for the delivery of the scheme. A further spend approval for the appointment and MKCC retained consultants' fees of £1.5M were approved for the PCSA Stage.

Graham Construction was appointed to commence the PCSA on the 9 January 2023, and to complete in December 2023. Work has been progressing collaboratively to complete the design, (the Contractor's proposals) and a Lump Sum offer by late November 2023, allowing for the main contract works under a design and build contract to commence in early 2024 for a two-year period.

During the PCSA all sub-contract and supplier tenders have been issued and returns, whilst ongoing until the end of October 2023, have allowed the team to interrogate and reflect the real effects of inflation and cost of living on construction costs which are higher than both those anticipated in Graham's PCSA tender cost estimate and in the MKCC pre-tender estimate.

A Homes England (HE) Grant application was submitted on the 23 June 2023 for £14.985M. Indications are positive regarding an award for this sum. HE has chosen to submit the scheme through their Regeneration Fund and will look to grant the award subject to Cabinet's approval of the final budget and the Council entering into both a contract with Graham Construction and a Grant Agreement with HE.

1. Proposed Decision(s)

- 1.1 That the public and press be excluded from the meeting by virtue of Paragraph 3 (Information relating to the Financial or Business Affairs of the Authority) of Part 1 of Schedule 12A of the Local Government Act 1972, in order that the meeting may consider the **exempt Annexes** to the report.
- 1.2 That in respect of Lakes Phase A Regeneration project, Cabinet note:

MK City Council, Civic, 1 Saxon Gate East, Central Milton Keynes, MK9 3EJ

- a) significant changes to the financial environment and project brief since the July 2021 decision to approve a capital budget for the; and
 - b) the preferred contractor engagement carried out under the PCSA, since the July 2022 decision, in order to ensure the design is fully costed and that the scheme specification offers value for money.
- 1.3 That a revised and increased capital budget for the delivery of the revised Lakes Phase A, reflecting a revised full spend capital budget of £83.774M Gross with (£68.789M Net Homes England Grant), be agreed.
- 1.4 That increased borrowing within the Capital Programme for up to £83.774M, be recommended to Special Council on 5 December 2023 for approval.
- 1.5 That subject to approval of the required capital budget, and the Lump Sum Main Contract offer from Graham Construction, (at the conclusion of the PCSA period in December 2023), being within the revised scheme budget:
- a) authority be delegated to the Director Environment and Property, and the Director Finance and Resources in consultation with Cabinet Member for Adults, Housing and Healthy Communities, to agree specific allocation of capital resources; and
 - b) the appointment of Graham Construction to undertake the construction of the works under a JCT Design and Build Lump Sum Contract, be agreed.
- 1.6 That the Council enter into a Homes England Grant Agreement:
- a) subject to the agreement of the Director of Finance and Resources and the Director of Law and Governance, to draw down a grant of £14.985M; and
 - b) noting that should Windermere Drive (Site A1) not complete before 31 of March 2026 there is a risk of losing up to £5M of Homes England grant funding.

2. Reasons for the decision?

- 2.1 To approve the updated scheme and to appoint the preferred contractor to construct the Lakes, providing new homes and amenities for the existing residents of Serpentine Court, and benefiting the wider Lakes community.
- 2.2 To approve the revised budget, allowing the delivery of Phase A of the Lakes Estate renewal scheme and to proceed and recommend to Council that the additional borrowing is approved, leading to the provision of new homes and amenities for the existing residents of Serpentine Court, and benefiting the wider Lakes community.
- 2.3 Serpentine Court represents a relatively small part of our housing portfolio (196 properties out of a total of c.11,500), but because of its overall condition it takes up a disproportionate amount of Housing Revenue Account (HRA) resources, resulting in the wider tenant rent base subsidising maintenance and improvement works. In addition to investing in the properties themselves, the external fabric and communal areas are in poor condition with significant ongoing maintenance investment required.

- 2.4 At this point in time, more than two years from the original budget approval there is considerable pressure from residents who balloted for the scheme in November 2018 to progress the scheme.
- 2.5 The scheme will also provide a new look Warren Park, and spaces for a new community centre, new nursery, and two new retail outlets for the benefit of the wider Lakes community.
- 2.6 The proposed construction scheme will promote social value and 'More for MK' is central to all sub-contract tenders and Graham's main contract terms and conditions.

3. Background to the decision

Changes to the Project Environment since July 2021

- 3.1 At the time of the original budget approval, it was anticipated that work would commence on site in August 2022 and complete in Summer of 2024. In the event, subject to Cabinet approval and the signing the Main Contract, the current planned commencement on site will be late January 2024, for a two-year period.
- 3.2 Since July 2021 there has been a growing awareness of the financial impact of COVID, BREXIT and the war in Ukraine, which have led to resource scarcity, uncertainty, and the current cost of living crisis, all of which have fuelled general inflation, tender price inflation and building cost inflation. Time durations for all activities have necessarily been extended over those originally envisaged, compounding costs still further.
- 3.3 Due to the imposition by central government of the rent cap in late 2022, the matched funding for the SHDF programme to ensure decent homes standards, pressure on the HRA business plan has increased.
- 3.4 Based on the amount of Homes England (HE) enabling grant funding for the scheme, an assessment made against BCIS Tender Price Inflation Indices, Graham's sub-contract / supplier tenders received to date, an assessment by MACE of outturn main contract costs, this paper requests a Revised Capital Budget of £83.774M Gross (£68.789M Net with Homes England Grant). This is based on a shared understanding of the final Main Contract Lump Sum between MKCC Housing Development, Finance, MACE cost consultants and Graham construction.
- 3.5 The key risk to receipt of the full HE Grant, once awarded, is the ability to complete the construction works by the end of the grant regime on 31 March 2026, albeit such regimes can allow exceptions due to unforeseen circumstances.

- 3.6 To mitigate this programme risk, separate grant applications have been made against each of the five housing sites in Phase A. Subject to letting the contract in December 2023, four sites are due to complete by the end of December 2025, with Windermere Drive site A1 (65 units), currently scheduled for completion in February 2026. Should site A1 not complete by 31 March 2026, then the potential grant lost would amount to £5M.
- 3.7 An equality impact assessment form was previously completed in regard to the regeneration projects and the Lakes regeneration was deemed to be a positive improvement for the local residents.

Work carried out under the PCSA to mitigate risk and impact on build costs.

- 3.8 Since the July 2021 capital budget approval, there have been key impacts on the project environment which have led to the need to refocus the scope, some of which have contributed to the need to request a revised capital budget:
- Unforeseen impacts of BREXIT on availability of foreign construction workers and the import of construction materials.
 - Impact of COVID more generally leading to human and material resource scarcity, adding to inflationary pressures.
 - The ongoing war in Ukraine.
 - The current cost of living crisis and in particular fuel costs leading to further inflation, impacting for example, the cost of production of manufactured construction materials (e.g., bricks), availability of raw construction materials and the cost of construction workers.
 - Rise in construction market prices responding to the above pressures, along with reduced resource availability in terms of people and companies.
 - The indicative construction costs submitted by all tenderers for the PCSA works were more than the pre-tender cost plan provided by the cost consultant.
 - The recommendations from Homes England, in terms of the grant funding.
 - A demolition consent for Serpentine Court will be required, and a contract let to demolish Serpentine Court. It is assumed that this will occur as part of the remaining Lakes regeneration and funds have been allocated within the HRA accordingly.
 - Impact of negotiations with the current nursery provider regarding the cost of surrendering their lease
 - Impact of the deteriorating condition of the existing Serpentine Court and the impact on the HRA of the increased asset management resource required to maintain it.
 - Impact of increased timescales between planning consent and letting of the PCSA contract have led to a further adverse impact of inflation and market conditions on the scheme, and especially the wellbeing of the existing residents of Serpentine Court who are to be rehoused in the new scheme.

- 3.9 Under the PCSA, detailed work developing the design and engaging with Graham's sub-contractors and supplier base to further optimise the design for construction and reduce the risk of unknown items (such as foundation design) has further strengthened the view that the current budget is not sufficient for the delivery of the Lakes Phase A.
- 3.10 Aware of the trajectory that the predicted cost of the scheme was more than the approved capital budget, the MKCC team has carried out the following:
- Omitted the demolition of Serpentine Court from the PCSA scope. Serpentine Court will be demolished as part of Phase B as previously envisaged. This is allowed for within the current Housing Revenue Account business plan.
 - Omitted the purchase of the existing nursery lease, substituting site A3, adjacent to the existing Serpentine Court (16 homes), in lieu of the existing nursery site (35 homes), which is now in later phases.
 - The consequent reduction of the overall number of homes in the proposed and revised phase A from 202 to 183 new homes exceeds the requirement to relocate existing Serpentine Court secure tenants (123 households as of June 2023). This decision was supported by an Officer Decision Report and formal consultation was not required. The intention remains to deliver the overall regeneration scheme with the remaining units in Phase A coming forward with Phase B.
 - Submission of the grant bid to Homes England.
 - Appointed MACE, as an independent, third-party cost auditor, to assess the cost plan alongside Graham Construction's cost plan.
- 3.11 The three key items, carrying the largest proportion of the elemental costs and hence risks were 1) the mechanical and electrical design and sub-contract costs; 2) the outstanding design and sub-contract costs of the foundations; 3) uncertainty around utility diversions, and associated costs:
- At the beginning of the PCSA, the mechanical and electrical designers and sub-contractors (MEP) were procured through an open book sub-contract tender process. The sub-contract tenders exceeded both the MKCC cost plan, and the indicative cost plan produced by Graham at tender stage. JBH Construction were appointed to work with the team to develop the design and specification during the PCSA stage.
 - At the beginning of the PCSA further ground investigations, engagement with piling and foundation sub-contractors, alongside engagement with the NHBC, who provide the warranties to MKCC for the new build homes, revealed additional design constraints and costs relating to the proximity of existing trees on the proposed foundation solutions.
 - During the PCSA it was identified that work could be brought forward to engage with the utility companies, place initial orders to secure commitments and provide survey data to feed into the design and sub-contract tender packages mitigating risk.

- 3.12 Following the appointment of MACE and the further work carried out on the MEP and foundation design, the team entered a 6-week value engineering process, reviewing all specifications and engaging informally with Graham’s supply chain on items such as reduced level digs, earth moving, kitchen, bathroom suppliers, warranty providers and building control.
- 3.13 The design was revisited in line with the review above and significant but non-material changes have been submitted to MKCC Planning for approval including the reduction of the overall height and mass of buildings, changes to brick and external balcony specifications. This work ensures that the design is as efficient as possible and reflects an agreed specification which maintains MKCC standards and policies. It also has allowed the team to ensure that the buildings do not fall within the higher risk category under the new Building Safety Act 2023 on account of reduced height and the traditional construction approach adopted.
- 3.14 At the end of the 6-week review period both MACE and the previous cost consultant produced a report detailing the changes made to the cost plan alongside savings, and indeed, some additional costs, that had been identified from the gap and risk analysis of the scheme.
- 3.15 Despite best efforts by all parties the combined effort of the MKCC and construction team have not been able to achieve savings to remain within the original approved budget.
- 3.16 Graham has now tendered works packages to sub-contractors and suppliers with tender returns higher than those anticipated at the end of the VE exercise.
- 3.17 Both main contractor’s costs and MKCC on-costs have been subject to increase.

Revised Phase A Details

3.18 The tables below show the existing makeup of Serpentine Court and how Phase A as reflected in the July 2021 approval has been reprofiled:

Existing Serpentine Court Use

SERPENTINE COURT EXISTING USE	Flats
Serpentine Court Existing units	197
Voids, non-secure, temporary lets	66
Leaseholders	8
MKCC secure tenancies (July 2023)	123

Summary of Current Phasing Compared to Revised Phasing

As current 2021 Approval	Flats	Houses	Council Homes	Open Market Sale
Phase A	130	72	202	0
Proposed reprofiled				
Reprofiled Phase A	112	71	183	0

Housing Needs Analysis and Proposed Delivery

	Current Secure tenancies	Reprofiled Phase A	Replacement Social	Additional Affordable
1 Bed	46	62	46	16
2 Bed	44	64	44	20
3 Bed	26	49	26	23
4 Bed	6	6	6	0
5 Bed	1	2	1	1
Total	123**	183	123	60

*(A further needs survey is being carried out – however, the above indicates that there is a surplus in all new unit sizes) (**as HE Grant application July 23)*

3.19 The reprofiled Phase A housing scheme provides 123 replacement social rent homes, and 60 additional affordable rent homes which will be allocated in accordance with the Council’s Housing Allocations Policy June 2022, based on a refreshed housing needs analysis, which is to be undertaken.

The rent levels that are expected to be applied will be:

- 183 replacement units, of which 123 units are currently subject to secure tenure at social rents and remainder currently temporary lets and voids (there may be marginal changes to rent levels if tenants move into properties that have greater / fewer bedrooms).
- Of the original 10 leaseholders, two have already been bought out leaving 8 to be bought out.
- An equity scheme has been approved and is available to current residential leaseholders.

3.20 The proposal includes the shell and core provision of non-residential units:

- New Nursery
- New Community Hub
- Two new commercial units, and:
- A new and improved Warren Park

3.21 Both the Serpentine Court Steering Group (SCSG) and the Lakes Estate Renewal Forum (LERF) have been kept informed of the amendments listed above throughout the process. It should also be noted that both these community groups have added substantial value and assistance in progressing this much needed project. They have often requested more detailed information and explanations and constructively challenged officers, their wider professional team and Graham Construction to help ensure the scheme progresses to the benefit of the Serpentine Court residents and the wider community. We are grateful for their input.

Economic and Social Value benefits of Phase A

3.22 As part of the tender documentation for the main contractor selection, the ‘More for MK’ policy on social value, including local employment, training and apprenticeships was included and formed part of the responses to the PCSA tender. The More for MK policy has been extended to the contractor’s supply chain in the open book approach adopted for sub-contract and supplier tendering to ensure MKCC best value through the PCSA process. Our aim is to provide a boost to the local economy supporting new job opportunities and the local supply chains. A ‘meet the suppliers’ event’ will be held at the beginning of the Main Contract to allow Graham to introduce the scheme and its opportunities to local suppliers.

3.23 As part of the PAGABO Framework, social value will be tracked through the Pagabo Social Value Calculator, which will be reported to officers on a regular basis during the main contract.

4. Implications of the decision

Financial	Y	Human rights, equalities, diversity	N
Legal	Y	Policies or Council Plan	Y
Communication	N	Procurement	Y
Energy Efficiency	N	Subsidy	N
Workforce	N	Other	

a) Financial implications

The original budget for the Lakes Phase A Regeneration scheme was approved by Cabinet on 13 July 2021 at a total cost of £61.650M. It was anticipated in the original budget that this would be financed by Homes England Grant (£0.500M), General Fund capital receipts (£3.000M) and the remainder through HRA borrowing (£58.150M). Borrowing was subsequently approved by Full Council on 14 July 2021.

The revised budget for the scheme is £83.774M, financed by Homes England Grant (£14.985M) (subject to formal agreement following budget, approval and entering into contracts with both Graham’s and Homes England), General Fund capital receipts (£3.000M) and the remainder through HRA borrowing (£65.789M). There is a net increase in the scheme cost of £8.589M and as this results in additional HRA borrowing, approval by Council is required.

The general fund assumptions remain in line with what was originally proposed despite the overall increase in scheme costs. This is due to the wider changes to the scheme, offset by increased overall construction price increases and approval of a shared equity scheme for resident leaseholders (Delegated Decision 5 September 2023). The apportionment of costs will be reviewed again upon submission of final works plans, but any change is not anticipated to be material.

The “Draft Council Housing Revenue Account (HRA) Budget 2024/25 and 30-year Business Plan Refresh” is also being considered by Cabinet alongside this report and reflects the revised Lakes Phase A scheme costs, grant funding and latest estimated cashflows of the construction and wider scheme costs as outlined in this report. The report also outlines the detailed borrowing strategy across the HRA. Should this decision not be approved, the impact on the business plan will be reflected as part of the final HRA budget to Cabinet in February 2024.

The revised capital budget includes all costs associated with the delivery of this project including the provision of housing, commercial and community facilities, improved public realm, S106 contributions to wider infrastructure, all associated professional and technical fees and statutory payments, such as homeloss.

The increase in costs is reflective of the deeper understanding of the scheme through detailed design and the significant increase in inflation, particularly in the construction industry. The original decision report (13 July 2021) was supported by a review of value for money against the alternative options, and this remains the case. Value for money is also supported through the rigorous grant application process with Homes England, view of external cost consultants (confidential Annex B) together with additional financial analysis included in confidential Annex A).

Risk has been minimised where possible, including through the procurement approach and detailed design works but this is a complex scheme and therefore a contingency is allowed for within the budget. There is a risk of grant loss if there are scheme delays. These are included on the project risk register and monitored closely by the project team and mitigations will be applied where needed. Further information is also included within Confidential Annex A.

b) Legal implications

The Council has general powers of competence under section 1 of the Localism Act 2011 to carry out the regeneration of the Lakes Estate.

The report requests approval to award the main construction contract to the bidder that emerged successful following a further competition process using the PAGABO framework. Use of frameworks is a recognised route to market that is permitted under procurement law. Prior approval was granted by the Council to commence the tender process using the PAGABO framework. Under the PAGABO framework, the bidder that is awarded the pre-construction services agreement is also awarded the main contract provided that the Council agrees with the costs for the main contract.

The form of contract to be used is the JCT design and build contract with amendments which have been incorporated and reviewed by legal services.

The Homes England Grant Agreement was reviewed by Finance and Legal and no substantive issues were identified, it being a term of the HE Grant approval that their agreement is accepted and unchanged.

c) Procurement Implications

A compliant procurement process was carried out in 2022 to appoint a main contractor to deliver the PCSA with the option to further appoint them to deliver the construction phase of the project. There is no further procurement implication to this project in terms of delivery as this is the option to be exercised.

5. Alternatives Considered

- 5.1 One alternative is to not proceed and effectively do nothing. This is not recommended as it would go against the ballot which voted overwhelmingly in favour of renewing the Lakes Estate and demolishing Serpentine Court.
- 5.2 To deliver a further reduced Phase A to accommodate the existing Capital Budget Approval, ignoring the impacts on this figure, identified in this report. The scheme is being developed on five separate sites within the existing estate, with Warren Park and the public realm improvements being the final part of the renewal process. It would be possible to omit one or more sites from the main contract. As the council must meet the requirement to rehouse the existing tenants from Serpentine Court there would need to be careful consideration of the new housing mix and current needs.
- 5.3 To subsequently develop any of the sites not progressed at this stage under the current arrangement with Graham would lead to additional costs, inflationary effects, and loss of the economies of scale that the revised budget approval sought in this paper would offer.
- 5.4 Finally, and most importantly, the implications of not progressing as soon as possible to provide new homes for the tenants of the existing Serpentine Court will require ever increasing amounts of money to spent on the existing Serpentine Court building, increased mothballing of units that cannot be maintained, increased relocation expenses, along with the on-going social impact on the remaining tenants, and the loss of the Homes England grant funding.

6 Timetable for implementation

- 6.1 Subject to approval by Cabinet on 5th December 2023, the main contract would be let before the end of December 2023 with the contractor taking possession of all sites on the 15th of January 2024 to commence construction.

List of annexes

Annex A (Exempt) – Finance Summary

Annex B (Exempt) – MACE Benchmark Report

Annex C (Exempt) – Risk and Opportunities Register

List of background papers

- [Serpentine Court and the Wider Lakes Estate – Approval for the submission of planning application, Cabinet Decision – 13 January 2020](#) (Items 16, 17, 18(a), 18(b) & 19)
- [Lakes Regeneration – Capital Budget Approval – 13 July 2021](#) (Items 24, 25 & 26)
- [Lakes Estate – Pre-Construction Services Agreement Drawdown - 19 July 2022](#)