



Mayor and Cabinet

Report title: 52-54 New Cross Road Budget Update

Date: 28 February 2024

Key decision: Yes

Class: Part 1

Ward(s) affected: New Cross

Contributors: Executive Director for Housing, Regeneration and Public Realm, Executive Director of Corporate Resources and Director of Law, Governance and Elections.

Outline and recommendations

This report sets a proposal and recommendation for the Council to approve increased costs to the scheme budget and note revised programme to completion as a result of party wall awards and unforeseen works discovered during demolition.

The scheme received M&C approval in July 2022. The consented scheme is for demolition of existing structure and construction of 35 flats for general needs rent. The new homes will contribute to the delivery of the Councils' building for Lewisham programme and to the corporate commitment to deliver new social homes.

It is recommended that Mayor and Cabinet:

- Approves the budget increase as set out in the Part 2 report; noting that the Council is obliged under the terms of the contract dated 3 October 2022 with Charles Edwards Ltd to pay the contractor increased costs associated with prolongation and party wall matters and the steps being taken to mitigate the Council's liability for increased costs as set out in the Part 2 report.
- Delegate to the Executive Director of Place to agree the associated contract variation required.
- Notes how the scheme is being sufficiently progressed to meet BSA deadline of 6 April 2024 and prevent further significant cost increases.

Timeline of engagement and decision-making

M&C approval 12 July 2022.

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This is the Part 1 of two Parts. Part 2 is commercially sensitive.

1. Summary

- 1.1 The scheme at 52-54 New Cross Road is on site and the contract (for demolition and newbuild development of 35 flats for affordable rent, and associated landscaping) is being progressed.
- 1.2 During demolition in September 2023 it was discovered that the neighbouring property belonging to Christ Faith Tabernacle (CFT) had inadequate foundations. Works were suspended while additional party wall awards for underpinning are pursued. Technical design work is progressing. The development falls within the transitional arrangements for higher risk buildings, under the Building Safety Act (BSA) and, as such, must have significantly progressed works by 6 April 2024. The current anticipated practical completion date has moved from November 2024 to May 2025.
- 1.3 Prolongation claims as a result of delays to concluding the party wall awards for demolition and for underpinning to neighbouring CFT property and the mitigations to meet the BSA deadline have resulted in additional contract costs that exceed the scheme's approved budget.

2. Recommendations

- 2.1 It is recommended that Mayor and Cabinet:
- 2.2 Approves the budget increase as set out in the Part 2 report; noting that the Council is obliged under the terms of the contract dated 3 October 2022 with Charles Edwards Ltd to pay the contractor increased costs associated with prolongation and party wall matters and the steps being taken to mitigate the Council's liability for increased costs as set out in the Part 2 report.
- 2.3 Delegate to the Executive Director of Place to agree the associated contract variation required.
- 2.4 Notes how the scheme is being sufficiently progressed to meet BSA deadline of 6 April 2024 and prevent further significant cost increases.

3. Policy Context

- 3.1 The Council's Corporate Strategy (2018-2022) outlines the Council's vision to deliver for residents over the next four years. Building on Lewisham's historic values of fairness, equality and putting our community at the heart of everything we do, the Council will create deliverable policies underpinned by a desire to promote vibrant communities, champion local diversity and promote social, economic and environmental sustainability. Delivering

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this strategy includes the following priority outcomes that relate to the provision of new affordable homes:

- Tackling the Housing Crisis – Providing a decent and secure home for everyone.
- Building an Inclusive local economy – Ensuring every resident can access high-quality job opportunities, with decent pay and security in our thriving and inclusive local economy.
- Building Safer Communities – Ensuring every resident feels safe and secure living here as we work together towards a borough free from fear of crime.

3.2 Lewisham’s Housing Strategy (2020-2026), includes the following themes that relate to the provision of new affordable homes:

1. Delivering the homes that Lewisham needs.
2. Preventing homelessness and meeting housing need.
3. Improving the quality, standard and safety of housing.
4. Supporting our residents to live safe, independent and active lives.
5. Strengthening communities and embracing diversity.

4. Background

- 4.1 The scheme received M&C approval in July 2022. The consented scheme is for demolition of existing structure and construction of 35 flats for general needs rent. LB Lewisham entered contract with Charles Edward Limited on 3 October 2022. The contractual completion date is November 2024.
- 4.2 The scheme was registered with Building Control in June 2022 and is, therefore, policy compliant with regulations and benefits from the transitional arrangement so long as works are sufficiently progressed by 6 April 2024, when the the Building Safety Act comes into effect.
- 4.3 The project as designed satisfies all current building safety regulations as certified by Building Control.
- 4.4 Demolition was programmed to commence on 31 January 2023, and complete on 24 April 2023. This was delayed by 21 weeks due to lack of responses to party wall notices from adjoining owners and no party wall awards being in place. Demolition works commenced on 10 July 2023 following receipt of party wall award for demolition on 22 June 2023.
- 4.5 During demolition works it was discovered that the neighbouring property (CFT) has inadequate foundations; and that underpinning works to the structure are required. Due to the dangerous structure, it was necessary to suspend demolition works on 8 September 2023. This delay has pushed the completion date back to May 2025. For works to resume further party wall awards are required with CFT to carry out underpinning works to the property. The protracted party wall negotiations have had various impacts on the programme and cost plan for the scheme, the details of which are set out in further detail below

5. Proposal

- 5.1 The approved scheme budget is £13,164,527. The additional costs are detailed in Part 2 but include:
- 5.2 Extension of time and loss and expense claims that the contractor is entitled to, under Clause 2.26.6 of the contract. However, to mitigate against further increases, the Council is seeking to agree a cap on claims for current issues.

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- 5.3 Costs to carry out underpinning to the neighbouring property to enable the works to progress and the additional cost of piling due to change of strategy to mitigate the risk of not achieving the 6 April transitional arrangement deadline.
- 5.4 The Council has concluded the necessary party wall award to enable piling works outside of the party wall zone and instructed that the piling be phased into two stages so that works can commence. The piling rig will need to be demobilised after phase one, to enable the underpinning works to the neighbouring CFT building, and remobilised to complete phase two. The contractor is negotiating with the piling company to limit costs and agreeing a fixed sum.
- 5.5 Completion may be delayed further due to works stoppage of piling works to facilitate underpinning, full impact of this delay cannot be assessed until the party wall award for the underpinning has been agreed.
- 5.6 Efforts underway to mitigate further significant costs increases and/or loss of grant funding include:
- 5.7 If the transitional arrangement conditions are not met by 6 April, the project will need to be redesigned in order to meet the BSA functional requirements. The cost of this cannot be estimated as it will be dependent on the final design. The impact of this upon programme and cost is likely to be substantial.
- 5.8 If the deadline is not met it would result in further delays of over 16 weeks for redesign, 15 weeks planning, 12 weeks re-tender and 8 weeks for M&C. This assumes that the project is terminated in its current form and re-tendered.
- 5.9 If the contract is terminated, it would give rise to substantial costs for loss & expense due to the contractor; and costs expended to date. It would also potentially result in a smaller scheme with costs subject to inflation, and therefore more expensive.
- 5.10 A delay to completion, or contract termination, endangers the GLA grant funding of which 85% has been drawn down at start on site.

6. Financial implications

- 6.1 Financial implications are included in the Part 2 report.

7. Legal implications

- 7.1 The Council has a specific power under Section 9 of the Housing Act 1985 to provide housing accommodation by erecting houses (which includes flats) on land acquired (which includes appropriated) for the purposes of Part 2 (HRA land). The Council can therefore rely on this power in respect of the land being acquired for the purposes of erecting the 35 New Affordable Homes (LARs).
- 7.2 Section 2 of the Local Authorities (Land) Act 1963 gives the Council a specific power to erect any building and construct or carry out works on land, but this power may only be used where the development of buildings/works is for the benefit or improvement of its area. Members should therefore be satisfied that this development will achieve that. In this respect it is relevant to consider the policy context at section 3 of this report.

8. Equalities implications

- 8.1 The redevelopment of the land at 52-54 New Cross Road results in the provision of new homes for families on the Council's housing register enabling the council to continue its obligation to provide housing for the borough's residents in housing need.

9. Climate change and environmental implications

- 9.1 The scheme at 52-54 New Cross Road has a planning consent and has signed a S106

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agreement. This planning consent is in line with the high standards expected by the Council. This developments will meet the London Plan requirements including seeking to reduce energy consumption, emissions, and climate change.

10. Crime and disorder implications

10.1 There are no matters arising from this report.

11. Health and wellbeing implications

11.1 There are no direct health and wellbeing implications arising from this report although the provision of new social homes along with improvements to the public realm and additional communal amenity spaces will have a positive impact on health and wellbeing of people on the housing register waiting for permanent accommodation.

12. Social Value implications

12.1 LBL will be seeking to secure social value offers from the main contractor. This will form part of the ongoing negotiations on the delivery of the scheme with the developer. The developer will also pay a s106 contribution of £18,550 for Council employment and labour initiatives.

13. Background papers

13.1 None

14. Glossary

Term	Definition
Total Scheme Cost (TSC)	All costs associated with the acquisition and subsequent works costs.
Net Present Value (NPV)	The Present Value of the 40 year income stream in relation to all costs incurred
London Affordable Rent (LAR)	The proposed tenure of the homes to be delivered.
Total Acquisition Price (TAP)	The total cost of acquiring the freehold land known as 52 New Cross Road from Southern Grove

15. Report author(s) and contact

15.1 Report author :

Coral Mitchell

coral.mitchell@lewisham.gov.uk.

15.2 Comments for and on behalf of the Executive Director for Corporate Resources:

Sandra Gray

sandra.gray1@lewisham.gov.uk

15.3 Comments for and on behalf of the Director of Law, Governance and Elections:

melanie.dawson@lewisham.gov.uk

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