

## Minute Extract from the Cabinet meeting on 24 April 2024 – Appendix C

### 13. CABINET MEMBERS' ITEMS - REPORT OF THE HOUSING & PLANNING PORTFOLIO HOLDER - A.6 - FURTHER UPDATE ON SPENDELLS HOUSE AND REVIEW OF BUDGET AND REFERENCE UNDER SECTION 5 OF THE LOCAL GOVERNMENT AND HOUSING ACT 1989

Cabinet considered a joint report of the Housing & Planning Portfolio Holder and the Monitoring Officer (A.6), which:-

- 1) updated it on progress with Spendells House being retained and reconfigured for the provision of temporary housing accommodation;
- 2) sought its continued support for the project in the light of the options available and the ongoing need for the accommodation;
- 3) sought additional funding for additional work to address matters that were not within the specification and were brought to light in the course of the project; and
- 4) informed Members of a breach of the Council's Financial Procedure Rules and legal decision making requirements with regard to variation of a contract without sufficient approvals in place and the actions taken in response thereto.

Cabinet noted that the Monitoring Officer was a co-author of the Report, only in so far as complying with the Section 5A of the Local Government and Housing Act 1989 obligations.

#### Background to bringing in new temporary accommodation to support the District's homelessness challenge

Spendells House was a 1960s constructed sheltered housing scheme with shared washing facilities and limited living space by modern standards. By 2017 the scheme was under occupied, hard to let and suffering from a number of repair and maintenance difficulties. At the same time the Council was (and still is) experiencing high and increasing demand to provide temporary housing for homeless people. At national level it was reported that homelessness had increased by around 13%. That demand had substantially exceeded the available accommodation in the stock and had resulted in the block booking of hotel rooms.

Hotel rooms were costly and were unsuited to decent family accommodation for daily life. Cooking and laundry facilities were rare and hotel occupancy policies were not well suited to family life.

Cabinet received a timeline of events as follows:-

*On 10 November 2017, Cabinet had received the report of the then Housing Portfolio Holder and had approved formal consultation on the future of two Sheltered Housing Schemes including Spendells House;*

*On 15 January 2018, Cabinet had agreed to waiver normal processes for allocating secure tenancies to enable the displaced and transferred tenants of Spendells House, Walton to be granted secure tenancies at alternative addresses;*

*On 15 January 2018, the former Service Development and Delivery Committee had considered the future of the Honeycroft and Spendells sheltered schemes and had supported the principle of closure of the schemes, subject to some supplementary recommendations;*

*On 16 February 2018, Cabinet considered the reference from the Service Development and Delivery Committee on the consideration of the future of the Honeycroft and Spendells Sheltered Housing Schemes. Cabinet had noted their recommendations and had welcomed the Committee's support;*

*On 23 March 2018, Cabinet had received the report of the then Housing Portfolio Holder and had decided on the closure of the two Sheltered Housing Schemes;*

*On 26 June 2020, Cabinet had decided to bring Spendells House back into use as temporary accommodation;*

*Officers arranged for the site to be stripped internally of all asbestos and a specification and a formal procurement process had been completed in accordance with the Council's Rules of Procedure and the lowest tender returned was in the sum of: £1.25m;*

*On 23 September 2022, a further decision by the then Cabinet had been proposed in order to consider a report on the review of the budget position and the award of contract agreed;*

*On 16 December 2022, the then Cabinet had considered a report on the review of budget position and award of contract and had agreed to continue to support the project subject to decision of the full Council to allocate a revised budget;*

*On 14 February 2023, the Full Council had decided to allocate additional funding for the project as part of the HRA budget setting process;*

*The project had faced cost increases before commencement on site due to national construction inflation.*

*On 3 March 2023, a proposal for further decision on the future use of Spendells House, Walton-on-the-Naze - Approval of financial business case had been published.*

*On 13 June 2023, the Housing & Planning Portfolio Holder, Leader of the Council & Corporate Finance & Governance Portfolio Holder had considered an update on Spendells House and Review of Budget. The Leader and Portfolio Holder had noted the increased costs, to be financed through capital receipts, had noted the updated business case and had confirmed support for the project;*

*Renewed engagement with the lowest tenderer had highlighted that since the submission of tenders costs had increased through inflation and that an additional £0.077m would be needed if the scheme were to be progressed.*

*On 21 July 2023, the Housing & Planning Portfolio Holder, Leader of the Council & Corporate Finance & Governance Portfolio Holder had considered a further update on Spendells House and a further review of budget and had agreed to continue with the project proposing to finance additional costs by reallocating money from within the HRA capital programme;*

*On 1 August 2023, the Corporate Director, in consultation with the Portfolio Holder for Housing & Planning had decided to appoint ARC to complete the work and to authorise the Head of Legal Services to enter into the construction contract;*

*Work on site had started on 16 October 2023.*

*Additional works were required beyond the original specification and implementing them also caused delays, both of which had further increased costs. During construction the need for additional work on a number of matters had arisen including:-*

- 1) *Fire compartmentation was incomplete above ceiling level and additional partitioning is required in order to limit potential fire spread in the roof void.* Issue had been discovered after the start of the works when the contractor had accessed the loft space;
- 2) *The electrical supply was found to be inadequate for the new electrical heating system and it was necessary to seek advice and quotation from the utility company which took some time to secure.* Specific analysis carried out by the electrical contractor followed by advice from the utility company on their infrastructure capacity;
- 3) *Water supply pipework was found to have a number of dead legs and sizing issues in relation to the new sprinkler system. Water heating to the laundry and shower areas had to be added to the works.* Partly caused by updated regulations but also erroneously not included in the outgoing specification;
- 4) *Drainage at the site was discovered to be broken and defective in some locations and in need of repair works.* Issues had been discovered once the areas were opened up by the contractor;
- 5) *Flat entrance doors and their fanlights and side screens were identified as not being fire rated.* An issue not recognised in the design stages;
- 6) *Flushing in of wiring and ground floor suspended ceilings were added in order to reduce long term risk of damage to services that would otherwise have been surface mounted.*  
Late change by the project team aimed at reducing long-term costs;
- 7) *A balcony area at the rear of the building was found to have a defective roof covering and it was proposed to replace the area with a section of sloping roof to match the remainder of the building.* Late change by the project team aimed at reducing long term costs.

Those additional works had been not included within the original specification, for the various reasons identified above and therefore had not been priced for as part of the successful tender. Accordingly, instructions for various additional works had been issued at a total estimated cost in the order of £0.525m. The financial effect of delays to the contract building up as a result of the additional work itself and awaiting the conclusions of the utility provider had amounts to an estimated £0.17m.

It was estimated that the final cost of the main contract would now amount to £2.1m, representing an increase in the contract sum of £0.77m, together with the previous expenditure of £0.149m and the inflationary effect on the contract before acceptance of £0.077m, amounted to a total cost of £2.25m. Additionally, the estimate for the revenue cost of furniture and equipment had risen from £60k to £70k owing to the passage of time and inflation. The financial effect of those instructions issued was to increase the cost of the project beyond the authority granted and the budget established.

#### The Council has to take a value for money decision on the project now

Simultaneously the cost of temporary housing provision had also escalated. The Council had a choice of whether to continue with the contract, increasing funding and confirming the additional works identified or negotiating an end to the contract and then either to discontinue the project or seek a further contractor to complete the project. It was the view of Officers that a negotiated termination of the contract would be costly, a cheaper completion of remaining work could not be predicted and design and procurement timescales would incur property holding costs and an opportunity cost in terms of delayed opening of the accommodation and the cost savings that it was intended to deliver.

The primary purpose of the scheme was to provide accommodation for homeless people and families. The financial cost of hotel provision to meet those needs was unaffordable in the long term. There was also a social value to better local provision: keeping local people in their area, with their schools, jobs, support networks and family support.

Having got to this point the best value option from here was to continue with the project and the current contract.

It was proposed that Cabinet continued to support the Spendells House site being retained and reconfigured for the provision of temporary housing accommodation

It was proposed that an additional £0.850m capital and £0.01m revenue was allocated from reserves to facilitate the completion of the project.

Some of the additional project costs were incurred without proper authorisation.

The Council's financial procedure rules had not been followed by the project team by the seeking of funding for the variations before commitments were made to the contractor. Accordingly, instructions had been given for which there was no authority and no budget.

This was a report issued under Section 5 of the Local Government and Housing Act 1989 to inform Members that Tendring District Council, had through contract management, varied the contract works beyond the scope of the approvals in place, through previous decision making and sufficient budget provision. The Council was required by law to consider this report and decide what action (if any) to take in response.

The Chief Executive and the Assistant Director (Finance & IT) & Section 151 Officer had both been consulted on this report, as required by the legislation.

The Portfolio Holder and the Management Team, in particular the Monitoring Officer and the Section 151 Officer, had raised significant concerns with the project team. The project team had acknowledged that in order to limit the stalling of the project Officers had given instructions to the contractor to proceed with works, which would lead to the final cost substantially exceeding the contract sum and the approved budget without the relevant approvals in place.

As a result the Council has reviewed its implementation of financial controls

The Internal Audit Team had been asked to look at the Council's arrangements for project management including any learning that should be embedded in relation to the Spendells conversion. The Audit team's report would be completed in the future. Notwithstanding that, there were some interim measures that Officers proposed to implement directly namely:-

- *Take a more measured and realistic approach to internal resources: Seek consultancy leadership in the delivery of major projects and factor those costs in from the start.*
- *Implement project review points in the development stages to ensure scope is not stretched and that financial review forms part of change processes.*
- *Ensure that realistic contingencies are included in all contracts and that realistic timelines are established at the early stages.*
- *Implement short term in-house development for staff in contract and project management.*
- *Identify appropriate staff to take part in formal project management training and potentially qualification.*
- *Include the importance of budgetary control and governance in one to one reviews.*
- *Hold monthly finance meetings between service and finance staff and formalise project review into monthly Portfolio Holder meeting agendas.*

The costs and timeline of this project had increased substantially. There were a number of areas of learning to be drawn out of events. However, the fundamental reasons for commencing remain valid i.e.

- *Accommodating homeless people in more suitable facilities*

- *Reusing a redundant building*
- *Revenue cost saving*

Cabinet also considered an addendum report, which provided it with the formal written comments of the Council's statutory Section 151 Officer on this matter. Those comments, *inter alia*, provided a commentary on the following issues:-

- (a) Internal Controls and Governance;
- (b) Value for Money considerations;
- (c) Use of HRA Reserves to fund the additional costs; and
- (d) Conclusions and proposed actions.

In order to:-

- (1) progress the provision of council owned and managed temporary housing accommodation;
- (2) formally receive the Section 5 report from the Council's Monitoring Officer and to consider its contents and Cabinet's response thereto;
- (3) gain the approval required for the contractual instructions and budget allocation, as variation orders had already been issued for the additional works, which were necessary to complete the project;
- (4) mitigate the reputational risk associated with this decision, as the Council has not followed its governance arrangements in this instance all managers would be formally written to reminding them of the seriousness of over-expenditure and committing to unfunded expenditure. Managers were also to be reminded of the robust internal controls in place and the absolute need to follow them in order to ensure that this event does not occur again.

It was moved by Councillor Baker, seconded by Councillor M E Stephenson and:-

**RESOLVED** that Cabinet –

- a) formally receives the Monitoring Officer's report and in response, notes the update on progress, increased contractual costs and additional budgets required to complete the project;
- b) continues to support, acknowledging the risks highlighted, the principle of the Spendells house site being retained and reconfigured for the provision of temporary housing accommodation;
- c) notes the financial implications incurred but that the most cost effective route forward is to complete the scheme and the contract in place;
- d) allocates an additional £0.850m capital and £0.01m revenue from reserves to facilitate the completion of the project;
- e) authorises the additional contractual works to be undertaken and recorded through contract management, as set out in the report (A.6);
- f) acknowledges that managers have been reminded of the internal control arrangements in place and the need for these to be followed in order to ensure such contract instructions are not proceeded with in future without the necessary approvals in place;
- g) requests that the Portfolio Holder for Housing and Planning provides corporate oversight of the completion of the project within the approvals in place;
- h) notes and endorses the instructions and actions of the Chief Executive, as set out within the Addendum Report;
- i) requests that Officers provide an update against the instructions and actions taken by the Chief Executive as soon as practicable; and

- j) acknowledges the potential alternative to using HRA Reserves highlighted within the Addendum Report and requests that the Section 151 Officer keeps the options under review during the year and reports back to Cabinet as necessary.