

OUTCOME FROM THE SPENDELLS HOUSE CAPITAL SCHEME REVIEW

Introduction, Background and Objectives

On 24th May 2024, a joint report of the Portfolio Holder for Planning and Housing and the Monitoring Officer, was presented to Cabinet, which provided a further update on the provision of temporary accommodation via the Spendells House project. The report also reported a review of the Budget position and Reference under Section 5 of the Local Government and Housing Act 1989. The purpose of the report was as follows:

- To update Cabinet on progress with Spendells House being retained and reconfigured for the provision of temporary housing accommodation
- To seek continued support for the project in the light of the options available and the ongoing need for the accommodation
- To seek 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
- To inform 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

The Monitoring Officer was the co-author of the report, only in so far as complying with the Section 5A of the Local Government and Housing Act 1989 obligations. An addendum report was also presented to the same meeting of Cabinet providing further update on Spendells House and review of budget and reference with the comments of the Assistant Director Finance and IT and Section 151 Officer.

Subsequently the Chief Executive Officer:

- (a) Instructed that a formal review be undertaken to provide further clarity on how the issue arose and developed (including the governance arrangements associated with issuing verbal orders), which in turn can inform any further actions along with informing decision making and project delivery in the future;
- (b) issued a directive to all Senior Managers relating to financial and budget management, which explains the consequences and expectations of them in their roles and will be supported by further collective meetings with Senior Officers over the coming weeks / months; and
- (c) commenced arrangements for the implementation of a Senior Officer Project 'Board' that in turn will report directly to the Council's Senior Management Team on a regular basis.

In respect of Item b) above, the directive referred has been issued and will form part of on-going collective meetings with senior officers over the course of the year as necessary, with an initial session held at a recent Senior Management Forum event.

In respect of Item c) above, arrangements remain ongoing and a further update will be provided to the Committee later in the year which will also be informed by the outcome of the review highlighted in a) above.

In respect of item a) above, this report sets out the initial outcome and recommendations emerging from that review with further details set out below.

In instigating the review, the Chief Executive directed the following:

1. To review the issues in relating to Spendells House, supported by the Section 151 Officer and Monitoring Officer with the Internal Audit Manager and Executive Projects Manager – Governance, duly appointed to conduct the review.
2. The scope of the review to cover the following areas:
 - a) Financial position
 - b) Identify spend which has not been approved
 - c) Was the spend unforeseeable or omitted from the specification of the project
 - d) Who agreed the unauthorised spend
 - e) As a result of the review, recommendation as to whether there should be a disciplinary investigation on any officers

Background

Spendells House is a 1960s constructed sheltered housing scheme with shared washing facilities and limited living space by modern standards.

Key dates for decisions on Spendells House are set out below;

- **10 November 2017** Cabinet received the report of the then Housing Portfolio Holder and approved formal consultation on the future of two Sheltered Housing Schemes including Spendells House.
- **23 March 2018** Cabinet received the report of the then Housing Portfolio Holder and decided on the Closure of two Sheltered Housing Schemes.
- **26 June 2020** Cabinet decided to bring Spendells House back into use as temporary accommodation - A.5 – minute no. 25.

Officers arranged for the site to be stripped internally of all asbestos and a specification and a formal procurement process were completed.

The procurement process was completed, in accordance with the Council's Rules of Procedure and the lowest tender returned was in the sum of £1.250m.

- **23 September 2022**, a further decision by the then Cabinet was proposed in order to consider a report on the review of budget position and award of contract and agreed to Spendells House.
- **14 February 2023**, the Full Council decided to allocate additional funding for the project as part of the HRA budget setting process.
- **March 2023**, a proposal for further decision on the future use of Spendells House, Walton-on-the-Naze - Approval of financial business case was published.
- **June 2023**, the Housing & Planning Portfolio Holder, Leader of the Council and Corporate Finance & Governance Portfolio Holder considered an update on Spendells House and Review of Budget. The Leader and Portfolio Holder noted the increased costs, to be financed through capital receipts, noted the updated business case and confirmed support for the project. ref: 11505.
- **21 July 2023**, the Housing & Planning Portfolio Holder, Leader of the Council and Corporate Finance & Governance Portfolio Holder considered a further update on Spendells House and further review of budget and agreed to continue with the project proposing to finance additional costs by reallocating money from within the HRA capital programme ref: 11622.
- **1 August 2023**, the Corporate Director, in consultation with the Portfolio Holder with responsibility for Housing decided to appoint ARC to complete the work and to authorise the Head of Legal Services to enter into the construction contract.
- **16 October 2023**, Work on site started.

Review and Outcomes

The review undertaken involved speaking with relevant officers along with obtaining information and documentation covering and supporting the following elements:

- Current financial position
- Contract and specification
- Management oversight – governance and financial approval processes
- Unauthorised spend
- Conclusion and recommendations

Current Financial Position

At its meeting on 24 May 2024, Cabinet approved an additional budget of £860,000 and the Chief Executive has approved via a separate decision, a further budget of £60,000 to meet the cost of fire doors.

The above brings the total capital project budget to £2.387m with a detailed history below:

Report	Adjustment	Total Project Budget (Capital)
Full Council February 2022 – HRA Capital Programme 2022/23	Reflected Initial Estimate	£600,000
Budget 2023/24 as agreed by Full Council February 2023	Addition of £800,000	£1,400,000
24 May 2024 Cabinet Report Item A.6	Addition of £860,000 (plus addition of furniture costs and other associated budget adjustments)	£2,327,000
Decision of the Chief Executive 10 June 2024	Addition of £60,000 to support the cost of replacement fire doors	£2,387,000

As at the 18 March 2025, the total capital expenditure incurred is £2,342,629. It remains the Service's expectation that the project will be delivered within the total existing capital budgets.

Contract

The contract between Tendring District Council and ARC Group London was signed and sealed on 30 Jan 24 utilising an Intermediate Building Contract 2016 (JCT).

The terms of the contract included a number of relevant elements such as responding to delays and extensions etc. It is worth highlighting the contractor provided their advice to extend the construction period along with a longer lead in time.

As with most construction projects, the contract allows for variations and it states that the Council may sanction in writing any variation made by the Contractor otherwise than pursuant to an instruction.

In terms of the definition of a variation, the contract states:

1. The alteration or modification of the design, quality or quantity of the Works including:
 - 1 - the addition, omission or substitution of any work
 - 2 – the alteration of the kind or standard of any of the materials or goods to be used in the Works;
 - 3 – the removal from the site of any work executed or Site Materials other than work, materials or goods which are not in accordance with this Contract;

2. The imposition by the Employer of any obligations or restrictions in regard to the following matters or any addition to or alteration or omission of any such obligations or restrictions that are so imposed or are imposed by the Contract Documents in regard to:
 - 1 – access to the site or use of any specific parts of the site;
 - 2 – limitations of working space;
 - 3 – limitations of working hours; or
 - 4 – the execution or completion of the work in any specific order.

In terms of the valuation of a variation, the contract states that amounts are as agreed by the Employer and the Contractor or, where not agreed, the amount valued by the Quantity Surveyor (a 'Valuation').

Some key points identified against the key elements of the process are as follow:

Contract Specification

- Consideration could have been given to obtaining external support in writing the specification.
- The specification could have minimised contract variations and covered reasonably foreseeable issues – there were 40 variation orders issued.

Management Oversight and Governance

- It took just over a year to produce a business case and then appointing a contractor to begin works.
- Unclear process for dealing with variations to the specification and contract
- There was a period of long-term sickness absence during the project and related to the oversight role.
- The project may have benefitted from additional capacity.
- The financial position of the project was not discussed during project meetings.
- The initial project completion date was the end of March 2024, then extended to the end of August 2024 and then November 2024 for completion and handover.
- £600,000 was allocated to the budget and the scheme was originally intended to be a refurbishment, decoration and alterations. However, the scope of the project grew as part of its intended use to meet the on-going

demand for temporary accommodation in the district which was a significant cost to the Council.

- Unclear decision-making responsibilities, particularly where additional funding was required to complete the project.
- The relevant experience of key Officers supporting the project.

Financial Approval

- The contract variation instructions were recorded on the contractor's system but not recorded on TDC systems or a project management chart.
- Contract variations were informed by the contractor after they identified issues and then notifying the Council, who then assessed the request and a price given by the contractor in order to complete those variations.
- Some issues may not have been foreseeable and therefore not included in the original specification.
- Overspends first came to light around 8 February 2024.
- Some issues could have been addressed earlier in the project.
- The process for managing variation orders was controlled by the contractor not the Council.
- Variations were approved without a financial quote being provided upfront by the contractor, along with details of the work required to allow time to review and inspect before approval.
- Misunderstanding of the requirements for quote documentation.

Unauthorised Spend

As reported to Cabinet in May 2024, the total unauthorised spend on the project equates to £386,535.12.

Some key points / issues identified included:

- Misunderstanding of approvals, budget availability and decisions required.
- Timing of updates to Senior managers
- The project budget contingency was not reassessed

Summary and Conclusions

Although it is felt that the Council's underlying / current governance arrangements and internal control processes are reasonable / adequate, there are a number of issues and recommendations identified regarding the project, with the aim of strengthen such arrangements as follows:

- The scoping, management and adherence to the Council's Governance Framework.
- Specification - specifications must be robust, complete and clear. Specifications should be compiled by service area experts, and if these

cannot be provided internally then services should be sought externally with an associated budget. Sufficient capacity should also be considered and allocated, with management oversight. A thoroughly prepared specification would negate the requirement for significant and numerous contract variations, although minor variations may still be expected.

- Contingency - contingency should not only be considered at the beginning of the project, but it should also be considered when tenders are returned as this may impact on the overall budget and therefore the level of contingency required. It is good practice to apportion between 10-20% of the overall budget dependant on the scale of the project.
- Project management - the project should report progress against time, budget and potential issues. Mechanisms within services need to be in place to ensure that senior management are aware when significant issues arise, in this instance substantial variations to the contract. Although regular meetings were occurring, these were without structure to the agenda and did not necessarily demonstrate the financial commitment of the project, and therefore opportunities to identify potential unauthorised earlier were missed.
- Decision making - constitutional requirements do not appear to have been adequately considered during the life of this project. It is therefore recommended that for future projects, all project leads review and consider constitutional requirements at both the planning stage and during the implementation of the project, to ensure that any statutory requirements are followed in addition to the contract terms.
- Training - adequate training for Officers should be provided before undertaking any project, including specification writing, project management and contract management, especially of this scale. Appropriate supervision and support should also be provided at the inception of the project.
- Strategic oversight – a Project Board will provide a consistent strategic approach to all projects going forward. All project managers are to report progress against targets including any potential issues that may occur. When providing financial information, this should also include amounts already committed, potentially using GANT charts may help. The minimum expectations of reporting standards should be agreed from the outset.
- Contract management - the Council's interests must be prioritised when managing contracts. This includes using the Council's own processes and systems and not relying on contractor processes and direction, as it may be

difficult to validate information and ensure that we comply with constitutional and statutory requirements. Control must be retained by the Council, even if the expertise lies with the contractor.

- Contract variation - contract variations must be limited by ensuring a robust specification is produced (as aforementioned). Variations should not be approved unless quotations or financial impact is provided in advance as well as being challenged when requested by a contractor. It may be beneficial to limit variation orders that can be approved in line with current constitutional requirements. The correct financial approvals must be sought in order to negate unauthorised spend.
- Unauthorised spend - managers should be aware of their constitutional responsibilities when authorising spend. Once Cabinet has approved an overall budget, managers should update and request additional funding if necessary from the Portfolio Holder / Cabinet, at the earliest opportunity prior to committing the Council to further expenditure.
- To include sessions within future staff inductions to draw attention to the Council's high level governance arrangements, policies and procedures. This could be complemented via a six monthly induction 'follow up' session aimed at senior managers that can provide further detail in key areas such as budget and financial responsibilities long with procurement and other requirements set out within the Council's Constitution.

In addition to the above and based on the detailed findings / outcomes, the matter has been referred for review against the Council's HR policies to determine any further necessary action.