

MINUTES OF CABINET MEMBER SIGNING MEETING HELD ON FRIDAY, 27 JANUARY 2023, 1:00PM - 1:30PM.

PRESENT: Councillor Ruth Gordon, Cabinet Member for Council Housebuilding, Placemaking, and Development

In attendance: Jack Gould, Senior Housing Project Manager and Nazyer Choudhury, Principal Committee Co-Ordinator.

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. APPROVAL TO DELIVER COUNCIL HOMES, LET CONSTRUCTION CONTRACT AND APPROPRIATION OF LAND AT FORMER CAR PARK, KERSWELL CLOSE, N15 5RP

The report sought approval from the Cabinet Member for Council Housebuilding, Placemaking, and Development to appoint the recommended contractor to construct, on Council land at the former Car Park, Kerswell Close, N15 5RP, twenty five new Council homes for Council rent consisting of nine one-bedroom flats, twelve two-bedroom flats, three three-bedroom flats and one four-bedroom flat with one Ground Floor three -bedroom and one Ground Floor four – bedroom flat being fully accessible for wheelchair-users (“the Kerswell Close development”). In addition the development would have an Office Hub capable of use by the Adult Social Services Team to support vulnerable Tenants in the wider area. The new Homes would be let at London Affordable Rents.

In order to facilitate this, the Cabinet Member for Council Housebuilding, Placemaking, and Development was asked to approve use of the Council’s powers to appropriate the land for planning purposes which would permit the Council to utilise the statutory powers to override easements and any other third party rights and interest, to allow the development to proceed in accordance with the planning permission.

Following on from a formal procurement exercise, the Cabinet Member for Council Housebuilding, Placemaking, and Development was asked to approve the appointment of Bidder 1 to deliver these new Council homes on vacant land.

The Cabinet Member RESOLVED

1. To approve the award of a contract to Bidder 1 as stated in the attached Exempt Report to undertake building works to provide a total of twenty-five Council rented homes at Kerswell Close for a total contract sum and approves the client contingency sum both of which were set out in the exempt part of the report.
2. To approve the appropriation of the land at Kerswell Close highlighted in the red line boundary plan attached at Appendix 1 from car parking purposes to planning purposes under Section 122 of the Local Government Act 1972 as it was no longer required for the purpose which it is currently held, and for the purpose of carrying out development as set out in this report.
3. To approve the use of the Council's powers under Section 203 of the Housing and Planning Act 2016 to override easements and other third party rights which may be affected by the Kerswell Close development, under planning permission Ref: HGY/2022/2250.
4. To delegate to the Director of Placemaking and Housing, after consultation with the Director of Finance and the Cabinet Member for Council Housebuilding, Placemaking, and Development, authority to make payments of compensation as a result of any genuine claims of third party rights affected by the Kerswell Close development and payable as a result of recommendation 2.2, within the existing scheme of delegation.
5. Approve the appropriation of the land at Kerswell Close (edged red in the boundary plan attached at Appendix 1) from planning purposes back to housing purposes under Section 19 of the Housing Act 1985, after practical completion of the development schedule in December 2023.

Reasons for decision

On 11th December 2018 Cabinet included the land at Kerswell Close into the Council's housing delivery programme. This scheme has subsequently been granted planning consent and is ready to progress to construction.

There were no reasons for the Council to believe that any third-party rights would be infringed by the development: Planning Permission was granted on 29th November 2022, and no applicable concerns about the loss of rights were raised during extensive local engagement and consultation, including a Section 105 consultation in May 2021 with residents. However, appropriation of the Kerswell Close development site for planning purposes is recommended as a precaution. It would allow the Council to use the powers contained in Section 203 to override easements and other rights of neighbouring properties and will prevent injunctions that could delay or prevent the Council's proposed development. Section 203 converts the right to seek an injunction into a right to compensation. The site would need to be appropriated back from planning purposes to housing purposes on completion of the development to enable the Council to use the land for housing and let 25 new Council homes.

To ensure continuity of ensuring that the Council was adhering to regulation 36 (Duties of Landlords) under the gas safe regulations 1998 to keep residents safe.

The site proposal will provide 25 much needed Council homes on Council land, including three, 3-bed, five-person family homes (one of which is at M4(3) standard) and one 4 Bed family home to M4(3) standard, which are in particularly high demand. Additional works proposed include extensive enhancements to the landscaping in the adjoining Kerswell Close estate, with much needed security measures including CCTV and lighting to prevent crime and anti-social behaviour.

Following a formal procurement process, a contractor had been identified to undertake these works.

Alternative options considered

It would be possible not to appoint a contractor to develop this site for the Council. However, this option was rejected as it does not support the Council's commitment to deliver a new generation of Council homes.

This opportunity was procured via a competitive tender through the Westworks Development and Construction Dynamic Purchasing System, using JCT Design & Build Contract 2016 with amendments. An alternative option would have been to do a direct appointment; however, this option was not suitable due to the estimated contract value of the scheme.

The Council could continue with the scheme without appropriating the site for planning purposes, but this would risk the proposed development being delayed or stopped by potential third-party claims. By utilising the powers under Section 203 of the Housing and Planning Act 2016 (HPA 2016), those who benefit from third party rights would not be able to seek an injunction since those rights or easements that are overridden are converted into a claim for compensation only. The Council recognised the potential rights of third parties and would pay compensation where a legal basis for such payments is established. The housing delivery team actively engaged with local residents about the development of this site as they proceeded through the feasibility and design stages and any comments or objections raised were taken into consideration by Planning Committee in reaching its decision.

4. EXCLUSION OF THE PRESS AND PUBLIC

Item 5 was subject to a motion to exclude the press and public be from the meeting as they contain exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paras 3 and 5, namely information relating to the financial or business affairs of any particular person (including the authority holding that information) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

5. EXEMPT - APPROVAL TO DELIVER COUNCIL HOMES, LET CONSTRUCTION CONTRACT AND APPROPRIATION OF LAND AT FORMER CAR PARK, KERSWELL CLOSE, N15 5RP

The Cabinet member considered the exempt item.

CABINET MEMBER: Cllr Ruth Gordon

Signed by Cabinet Member:.....

Date30/1/2023.....