

## **MINUTES OF CABINET MEMBER SIGNING MEETING HELD ON TUESDAY, 8TH MARCH, 2022, 10.00 - 10.05 AM**

**PRESENT:** Councillor Ruth Gordon, Cabinet Member for House Building, Place-Making, and Development.

**In attendance:** Yvonne Robinson, Housing Delivery Project Manager; Robbie Erbmman, Assistant Director for Housing; Bruno Bridge, Senior Housing Project Manager; Matthew Maple, High Road West Lead; Hamza Farah, Housing Delivery Project Manager; Anna Blandford, Head of Housing Development; Peter O'Brien, Assistant Director for Regeneration and Economic Development; and Fiona Rae, Acting Committees Manager

### **150. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **151. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **152. LETTING OF BUILD CONTRACT FOR TOPHAM AND RISLEY**

The Cabinet Member for House Building, Place-Making, and Development considered the report which sought approval, in the light of consultation with local residents, to build four new Council homes on Council-owned land at Topham Square and Risley Avenue, in the White Hart Lane Ward. The homes comprise 1 two-bedroom house, 2 three-bedroom houses and 1 four-bedroom house, all of which will be let at Social Rents.

In order to achieve this, the report asked to agree the appropriation of the land, first for planning purposes, and then, on completion, for housing purposes; and in light of a formal tender process to award a construction contract to a locally based firm, NFC Homes Limited.

The Cabinet Member for House Building, Place-Making, and Development noted that the Cabinet Member portfolio had been updated from the Cabinet Member for Housing and Estate Renewal to the Cabinet Member for House Building, Place-Making, and Development.

#### **The Cabinet Member RESOLVED**

1. To consider the responses to the consultation carried out on this proposed scheme in line with section 105 of the Housing Act 1985, as set out in the report, and the wider community engagement set out in the report.

2. To approve the direct appointment allowed by Contract Standing Order 10.01.2.d of NFC Homes Limited to undertake the new build works to provide a total of four new homes at Topham Square and 15-25 Risley Avenue car park for the contract and contingency sum set out in the exempt report attached as Appendix 2.
3. To approve the appropriation of the land at Topham Square and 15-25 Risley Avenue car park (edged red in the plans attached at Appendix 1) from housing purposes to planning purposes under Section 122 of the Local Government Act 1972 as it is no longer required for the purpose which it is currently held, and for the purpose of carrying out development as set out in section 6 of this report.
4. To approve the use of the Council's powers under Section 203 of the Housing and Planning Act 2016 to override easements and other rights of neighbouring properties infringed upon by the Topham Square and Risley Avenue development under planning ref: HGY/2022/0018.
5. To delegate to the Director of Housing, Regeneration and Planning, after consultation with the Director of Finance and the Cabinet Member for ~~Housing and Estate Renewal~~ **House Building, Place-Making, and Development**, authority to make payments of compensation in the event that any infringement arises from the development and the recommendation 3, within the existing scheme of delegation.
6. To approve the appropriation of the land at Topham Square and Risley Avenue Road car park (edged red in the 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.

### **Reasons for decision**

The land at Topham Square and Risley Avenue was approved by Cabinet in July 2019 to be included in the Council's Housing Delivery programme. A planning application was submitted on 4 January 2022 and a decision is expected by 1 March 2022. Subject to planning approval, the scheme is ready to progress to the construction phase. This report therefore marks the third, and final, Members' decision to develop on these sites.

Direct appointment of the contractor in this case is justified because it is in the Council's overall interests. Current market conditions are uncertain and difficult, and there is significant risk of a lack of interest in this scheme. The scheme's viability depends on meeting deadlines attached to grant funding and the risk of an unsuccessful competitive tender process was considered to be high, and therefore to put the scheme's viability at risk. A locally based contractor known to have provided the Council with quality work on similar schemes was approached and asked to submit a tender return.

The appropriation of the site for planning purposes is required as it will allow the Council to use the powers contained in Section 203 to override third party rights such as 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 land will 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 the new Council homes at Council rent.

The proposals will improve security for new and existing residents and alleviate potential anti-social behaviour and fly tipping attracted by an unsecured car park.

### **Alternative options considered**

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

The Council could have run a competitive tender from the London Construction Programme (LCP). This option was rejected due to limited interest from the LCP framework contractors and the time constraints involved in delivering this scheme. Instead, this opportunity will be procured via a direct appointment from the Major Works 2019 LCP Framework Agreement, the recommended route for a contract of this value.

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 appropriating it for planning purposes and utilising the powers under Section 203 of the Housing and Planning Act 2016 (HPA 2016), those who benefit from third party rights will 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 recognises the potential rights of third parties and will 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 in reaching its decision.

The Council could decide not to appropriate the land for housing purposes upon practical completion of the building works. This option was rejected because it could prevent the Council from being able to offer up these homes for occupation as social housing thereby not supporting the delivery of much needed affordable homes.

## **153. APPROVAL OF HOUSING CONSTRUCTION CONTRACT AND LAND APPROPRIATION AT REMINGTON ROAD**

The Cabinet Member for House Building, Place-Making, and Development considered the report which sought approval, in light of engagement with local residents, to deliver forty-six new Council homes for Council rent on Council land consisting of twelve one-bedroom, sixteen two-bedroom, fourteen three-bedroom and four four-bedroom with five of these homes being fully accessible for wheelchair-users.

In order to facilitate this, Cabinet is being asked to approve use of the Council's powers to appropriate the land for planning purposes and to override any easements.

Cabinet is asked in light of a formal procurement exercise to approve the appointment of Formation Design & Build Ltd (exempt - further details in exempt report), to deliver these new Council homes on vacant land.

The Cabinet Member for House Building, Place-Making, and Development noted that the Cabinet Member portfolio had been updated from the Cabinet Member for Housing and Estate Renewal to the Cabinet Member for House Building, Place-Making, and Development.

### **The Cabinet Member RESOLVED**

1. To approve the appointment of Formation Design & Build Ltd to undertake building works to provide a total of forty-six Council rented homes at Remington Road for a total contract sum as set out in the exempt appendix; and to approve the client contingency sum set out in the exempt part of the report.
2. To approve the appropriation of the land at Remington Road highlighted in the red line boundary plan attached at Appendix 1 from housing purposes to planning purposes under Section 122 of the Local Government Act 1972 as it is no longer required for the purpose which it is currently held, and for the purpose of carrying out development as set out in paragraphs 6.1 to 6.7 of the 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 rights of neighbouring properties infringed upon by the Remington Road development, under planning permission Ref: HGY/2021/2882.
4. To delegate to the Director of Housing, Regeneration and Planning, after consultation with the Director of Finance and the Cabinet Member for ~~Housing and Estate Renewal~~ **House Building, Place-Making, and Development**, authority to make payments of compensation as a result of any infringement arising from the development and payable as a result of recommendation 3, within the existing scheme of delegation.
5. To approve the appropriation of the land at Remington Road (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.

### **Reasons for decision**

On July 2019 Cabinet included the land at Remington Road into the Council's housing delivery programme. This scheme has subsequently been granted planning consent and is ready to progress to construction. This report therefore marks the third, and final, Member led decision to develop on this site.

Following a formal procurement process, a contractor has 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 2016 with amendments. An alternative option would have been to do a direct appointment, but this option was rejected 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 will 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 recognises the potential rights of third parties and will 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.

#### **154. APPOINTMENT OF CONTRACTOR FOR WORKS TO IRISH CENTRE FOR RELOCATION OF THE GRACE ORGANISATION**

The Cabinet Member for House Building, Place-Making, and Development considered the report which noted that the Whitehall Street premises occupied by the GRACE were in the first phase of the High Road West Scheme, recently confirmed as proceeding following a 'yes' vote in the ballot of Love Lane Estate residents. The High Road West Scheme would require the demolition of Grace Centre premises at Whitehall Street as this was the location for the first new council houses. The GRACE Organisation's relocation was therefore important for the delivery of the scheme and in light of the importance of the service to the community in north Tottenham, the Council had prioritised finding suitable new premises to enable this service for Haringey residents to continue. The Council had committed to finding the GRACE Organisation a space of similar size in which to provide their day provision services. The Council was working with the Grace Organisation to shape the design and agree the works required to refurbish the Irish Centre to enable their relocation. The relocation was required to provide vacant possession of the first part of the High Road West site, ahead of the deadline for Start on Site of Plot A of the High Road West scheme as required under the terms of the GLA funding.

It was noted that the report sought approval for a budget of up to **[This information is contained in the exempt report]** to deliver these works, and to approve a delegated authority to the Director for Housing, Regeneration and Planning to appoint a Contractor on completion of the tender. The report described the nature of those works and the basis for this decision.

## **The Cabinet Member RESOLVED**

1. To approve the sum of up to **[This information is contained in the exempt report]** for the appointment of a Contractor for delivery of the Grace Relocation Works as outlined in paragraphs 6.7 to 6.8 of the report.
2. To give delegated authority to the Director of Housing, Regeneration and Planning to agree the final sum for the works within the upper limit referred to in 'i' above, and to appoint, and enter into contract with a Contractor based on the outcome of the tender process.
3. To agree for the costs for the works to be paid from the Land Assembly Budget and subsequently claimed from Lendlease on transfer of the lease for Phase 1 of the scheme, as part of the reimbursement costs for property in the High Road West scheme as related to the CPO Indemnity Agreement as described at paragraph 6.9 of the report.

## **Reasons for decision**

The Grace Organisation delivers a valuable day service to the local older community including clients referred by Adults and Health, which will need to be maintained following their relocation from their current site, which is in the first phase of the High Road West scheme. The proposed refurbishment of the Irish Centre to accommodate the Grace Organisation provides the opportunity for a good quality new facility to be provided for the Grace Organisation that is compliant with recognised day provision and dementia standards as part of the wider range of community organisations based at the Irish Centre.

The High Road West scheme is required to meet challenging timescales related to the funding and delivery deadlines. The Council needs to procure a contractor to deliver the works to the required level of quality and specification, in line with the timescales. The period available to the Council in which to procure and deliver the works to meet GLA funding deadlines, requires that a contractor is procured by mid March and in contract by April. Approval of the recommendation(s) through this Cabinet Member Signing will allow the Council to meet this timescale.

## **Alternative options considered**

### Not to approve the sum to undertake the works to the Irish Centre

Not to approve the sum recommended in this report would result in the Council being unable to procure and deliver the refurbishment works at the Irish Centre that would allow the relocation of the Grace Organisation. This in turn, would result in Grace not being able to move away from the site area to a facility with which to deliver their service and the Council being unable to meet its obligations in delivering a vacant site for the first phase of High Road West. This would result in substantial risks (e.g. financial, political, reputational, legal) due to the failure of the High Road West scheme to progress in line with commitments made by the Council.

**155. EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED**

That the press and public be excluded from the remainder of the meeting as items 7-9 contained 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.

**156. EXEMPT - LETTING OF BUILD CONTRACT FOR TOPHAM AND RISLEY**

The Cabinet Member considered the exempt information.

**157. EXEMPT - APPROVAL OF HOUSING CONSTRUCTION CONTRACT AND LAND APPROPRIATION AT REMINGTON ROAD**

The Cabinet Member considered the exempt information.

**158. EXEMPT - APPOINTMENT OF CONTRACTOR FOR WORKS TO IRISH CENTRE FOR RELOCATION OF THE GRACE ORGANISATION**

The Cabinet Member considered the exempt information.

CABINET MEMBER: Cllr Ruth Gordon

Signed by Cabinet Member .....

Date ...8 March 2022.....

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