

**Report for:** Cabinet – 8 November 2022

**Title:** Cranwood, 100 Woodside Avenue, N10 – Award of Construction Contract

**Report**

**Authorised by:** David Joyce, Director of Housing, Regeneration and Planning

**Lead Officer:** Robbie Erbmann, Assistant Director for Housing

**Ward(s) affected:** Muswell Hill

**Report for Key/**

**Non Key Decision:** Key Decision

**1. Describe the issue under consideration**

- 1.1 On 6 June 2022 Planning Committee resolved to grant permission for the redevelopment of the Council owned site known as Cranwood, 100 Woodside Avenue, N10.
- 1.2 This report seeks approval to appoint the recommended winning contractor identified in the exempt part of the report to undertake the new build development comprising thirty two council homes and nine private for sale flats and houses at Cranwood, former care home and to appropriate the land for planning purposes to facilitate the development process and the disposal of nine private for sale units.

**2. Cabinet Member Introduction**

- 2.1 I'm proud to recommend agreeing the construction contract proposed here so that we can go ahead and build 41 new homes on the site of the disused Cranwood Care Home: nine homes for market sale and 32 council homes, including five with three bedrooms and four that will be adapted around the specific needs of individual households with disabilities.
- 2.2 This is a complex site, and it has been a challenging journey to reach this point. We have considered all views expressed by the local community, made numerous design changes, and considered the needs of homeless families and those in overcrowded homes. The scheme I am recommending that we now build will create a new community in Muswell Hill with over 830 square meters of fresh green landscaping, the planting of 46 new trees, a new subway to Parkland Walk, and an improved stairway to Woodside Avenue from Muswell Hill Road. The three buildings are tenure-blind, with the same materials and design details so that homes for council rent and those for sale are indistinguishable. At the centre of the three buildings is a communal courtyard garden, private gardens, and balconies. The communal courtyard garden and play spaces have been designed to be used by all residents throughout the scheme. The scheme has been carefully designed to integrate with the neighbouring Parkland Walk and Highgate Wood.
- 2.3 All three buildings have been designed to Passivhaus design principles to achieve the highest levels of energy efficiency. Triple glazed windows, photovoltaic panels on the roofs and additional insulation are just some of the measures that have been

integrated into the design of the scheme. The combination of the contextual setting and the implementation of Passivhaus principles has led to a unique scheme which addresses design quality and sustainability as one. The 32 council homes will achieve Passivhaus certification, and this could not be a more significant moment in which to be building new genuinely affordable homes that will reduce energy use and costs to a minimum, future proofing against surges in energy prices and reducing the likelihood of energy poverty.

### **3. Recommendation**

#### **3.1. Cabinet is recommended:**

- 3.1.1. To approve the appointment of the recommended contractor identified in the exempt part of the report to undertake the new build works to provide a total of forty one council homes and private for sale homes at Cranwood, 100 Woodside Avenue, N10 for a total contract sum as set out in the exempt part of this report and the client contingency sum set out in the exempt part of the report.
- 3.1.2 To approve the appropriation of the land at Cranwood, 100 Woodside Avenue, N10 3JA (edged red in the plan attached at Appendix 1) currently held partly for general fund purposes (shown coloured red) and partly held for housing purposes (shown coloured blue in Appendix 3) for planning purposes under Section 122 of the Local Government Act 1972 as they are no longer required for the purpose for which they are currently held, and for the purpose of carrying out development as set out in paragraphs 5.6 to 5.32 of this report.
- 3.1.3 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 Cranwood, 100 Woodside Avenue N10 development, under planning permission Ref: HGY/2021/2727.
- 3.1.4 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 infringement arising from the development in respect of recommendation [3.1.3].
- 3.1.5 To approve the appropriation of the land at Cranwood, 100 Woodside Avenue (edged red in the plans 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 (which is anticipated to take place on or about 31 December 2024).
- 3.1.6 To approve the Total Scheme Costs, including on costs, works, interest, contingency, and other costs to the value as set out in detail in the exempt part of the report.
- 3.1.7 To approve the disposal of a total of nine open market sale units to be

constructed and contained within the development at Cranwood and more particularly described in paragraph 5.10 for a minimum total sale price as set out in the exempt report and note that such disposals will only be implemented in the event that (if required) the consent of Secretary of State for each of the disposals has first been obtained; and

3.1.8 To delegate authority to the Director of Placemaking and Housing, in consultation with the section 151 Officer and after consultation with the Cabinet Member for Finance and Local Investment and Cabinet Member for Council Housebuilding, Placemaking, and Development, to agree the timing, price, and the terms and conditions for each disposal to a formal valuation at the time of sale based on the minimum value stated in the exempt part of the report and legal documentations.

#### **4. Reasons for decisions**

4.1 The site known as Cranwood former care home was approved by Cabinet on 9 July 2019 to be included in the Council housing delivery programme. This scheme was granted planning consent on 10 October and is ready to progress to construction. This report therefore marks the third, and final, Member led decision to develop the site.

4.2 Following a formal competitive tender process, a contractor has been identified to undertake these works. These have been assessed through our usual process as outlined in the Exempt paper. This includes an independent assessment from a cost perspective by the Employer's Agent. At tender stage, this involves cost benchmarking against the wider market and ensuring that the tenders are priced correctly against each other.

4.3 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 easements and other third party 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 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 thirty two new Council homes at social rent, although nine private for sale homes will be disposed of on the open market.

4.4 The new development at Cranwood will allow the Council to redevelop an underutilised site, where the former Cranwood care home has been vacant for some time. The development offers a high quality scheme providing forty one homes, open space and landscaping, disabled parking and enhancements to the Parkland Park along Woodside Avenue. The development will help support delivery of the Borough Plan, Priority 1: "Our vision is for a safe, stable and affordable home for everyone, whatever their circumstances".

4.5 During planning consultation stages, local stakeholders raised concerns about demolition works taking place during school term time. Demolition of the existing care home started on 22/08/22 and is due to complete on 14/11/22.

#### **5 Alternative options considered**

- 5.1 It would be possible not to develop this site for housing purposes. However, this option was rejected as it does not support the Council's commitment to deliver a new generation of Council homes and would lose the opportunity to develop across the whole of the borough including wards in the West. In addition, not going ahead at this time would result in the loss of GLA grant funding under the Building Council Homes for Londoners Programme making the viability of any future scheme difficult.
- 5.2 This opportunity was procured via a competitive tender from the Cabinet Office backed consortium Westworks Procurement Ltd CONST2018DPS (Development and Construction DPS route) for pre-tendered works, services and supplies for the public sector, the recommended route for a contract of this value. An alternative option would have been to run a competitive tender via the Council's LCP Major Works Framework, but this option was rejected due to a poor response following issuing a number of expressions of interest and because sufficient and suitable interest was not attracted via this framework.
- 5.3 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. Making use of this power allows the Council to override these third rights and allows the third party to make 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 these sites 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. For these reasons, this option was rejected.
- 5.4 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.
- 5.5 The Council could decide to redesign the project and deliver it at a reduced specification in order to save on costs. This option has been rejected because, in a highly febrile construction market, there is no guarantee that a reduced specification would necessarily reduce the Council's overall costs on this project. Any significant change to the specification would involve significant and costly changes to design. Amendments would need to be agreed through the planning process, and any significant changes would likely involve a return of the scheme to Committee. Given the material changes to the tender, it would also be likely to be retendered in a construction market where inflation is currently running at c.15%. Withdrawing the project at this stage would put the funding of this and other projects at risk, with more information set out in the exempt report.

## **Background information**

## **Cranwood development site**

- 5.6 The site known as Cranwood former care home is shown edged red on the plan attached at Appendix 1. Cranwood is located on the corner of Woodside Avenue and Muswell Hill Road in Muswell Hill ward. It is currently occupied by a vacant 2/3 storey care home. In 2013, Cranwood House Care Home was decanted and de-registered as a care home. The council is currently securing the vacant building by 24hr security guards to mitigate squatters and anti-social behaviour. Therefore, the development plans consist of demolition and re-build proposals.
- 5.7 This site is Council-owned land and is partly held in the General Fund which includes c75% land from the North of the site running south (shown coloured red on the plan attached in Appendix 3) and partly held for housing purposes 25% in HRA, primarily incorporating land to the West of the site (shown coloured blue on the plan attached in Appendix 3).
- 5.8 On 9 July 2019, Cabinet approved the inclusion of Cranwood, former care home into the Council's housing delivery programme in order to determine their feasibility and capacity for the delivery of new homes and then, if appropriate, their progression through to planning consent.
- 5.9 On 8 March 2022, cabinet approved the recommendations not to acquire 104 Woodside Avenue and to proceed with the development of the proposal for 100 Woodside Avenue as outlined in the planning application HGY/2021/2727. This decision was taken in accordance with a recommendation within The Local Government and Social Care Ombudsman report of 10 January 2022 for the Council to reconsider the proposals for the development of the site.
- 5.10 Designs have been developed that will deliver a total of 41 new homes including 32 much needed Council homes, of these 16 are designed as two and three bedroom maisonettes and 20% of homes will be family sized and 16 are designed as one, two and three bedroom flats. The homes are designed to be built to 90% improvement on building regulations, consumption of fuel and power. In addition, there will be 9 open market sale homes these will include 2 three bedroom houses and 7 one, two and three bedroom flats. These units will be sold on the open market.
- 5.11 This is a highly complex scheme in a number of areas. The construction of this scheme is complex due to the buildings' proximity to the highway, as well as the retaining walls and abnormal work in the ground required for building over the mains sewer and three water mains as well as various service diversions. There is difficulty accessing the site as it is in close proximity to the neighbouring school and there are also issues with getting deliveries into this location.

## **Urban greening, trees and ecology**

- 5.12 The scheme will create a large and welcoming courtyard community amenity space, with over 830m<sup>2</sup> of landscaping and 46 new trees. In addition, a large play area providing 265sqm of "natural" play space for children is incorporated into the design. The proposed development would also include high-quality improvements to public realm areas including new tree planting and landscaping both around and through the site. Additional planting to Parkland Walk would be provided in

the form of stepped raised beds and new trees. Bat and bird boxes would be installed, and native flora would be used, amongst other biodiversity improvements, in the comprehensive new landscaping throughout the development. There is a commitment to work closely with stakeholders on these landscaping improvements and a possibility of the inclusion of a green wall within a suitable part of the site.

- 5.13 A resident engagement event was held on the 30 November and 1 December 2020. Residents fed back comments and the proposals. The scheme was submitted to planning in September 2021 (following design reviews) and residents were formally consulted as part of this process.
- 5.14 On 6 June 2022, Planning Sub Committee resolved that Planning Permission be granted. The decision notice was issued on 10 October 2022.

### **The Build Contract**

- 5.15 This report is seeking final approval of the construction contract to enable the new build works to commence.
- 5.16 Cranwood housing scheme has been designed up to stage 3 of the Royal Institute of British Architects (RIBA) Plan of Works 2019. Since planning approval has been granted, a contractor is now needed to undertake the new build works; it is currently anticipated that the contract period will be 24 months.
- 5.17 The construction tender went out to the market on the 13 April 2022 to a total of 16 suppliers with a deadline of 8 June 2022.
- 5.18 In total five suppliers accepted the tender opportunity and three suppliers responded.
- 5.19 The recommended winning contractor was asked to respond to a 60% quality and 40% price assessment. Full tender sum analysis has been provided in Appendix 2, which is exempt due to the commercially sensitive nature of this information.
- 5.20 The quality assessment was conducted via a pre-agreed list of questions that were included as part of the Qualitative Delivery Proposals. Each question was offered a score between 0 (question not answered) and 5 (excellent) together with a weighted score. The quality assessment was reviewed by the Procurement Team to ensure that a high level of quality was demonstrated, i.e. total scores of at least 80% (16 out of 20).
- 5.21 Cost was evaluated independently by the Project Team's Cost Consultant to ensure value for money in line with current market trends.
- 5.22 The recommended contractor's total contract sum is set out in the Exempt Part of this report. Considering the size, scope, complexity, and abnormalities specific to this project, the Project Cost Consultant has concluded that the tender submitted by the recommended contractor has provided a high level of understanding of the scheme and a clear and concise tender (commercial) and offers reasonable value for money in the current market.

- 5.23 The quality and cost proposals are both outlined in detail within the Exempt part of this report. The recommended contractor's proposal demonstrated good quality across the nine questions. It is also considered good value for money for the scope and complexity of the scheme and the Cost Consultant for this project is satisfied with their pricing offered.
- 5.24 The contract is to be awarded on a fixed price basis. It includes new build works, demolition, site establishments, site enabling works, management costs and includes overheads and profits and there is a defects liability period of 12 months.
- 5.25 The Council is seeking to start construction works for the schemes in October 2022 with completion expected in September 2024.

### **Appropriation of land**

- 5.26 This report seeks approval to appropriate the land known as Cranwood, 100 Woodside Avenue site (outlined in red on the plan attached at Appendix 1) for planning purposes pursuant to Section 122 of the Local Government Act 1972 as it is no longer required for the purposes for which it is currently held. The site is no longer required to be used as a care home (which is currently being demolished); it is currently vacant and has been for the last 9 years and has therefore fallen into a state of dis-repair.
- 5.27 The appropriation of the land and the subsequent development will enable the Council to secure the plot boundary and will enable the Council to implement the necessary security measures as the new homes have been designed to Secure by Design standards.
- 5.28 This report also seeks Cabinet approval to use the Council's powers under Section 203 of the HPA 2016 to override easements and other rights that would be infringed upon by Cranwood development. The types of third party rights that can be overridden by Section 203 of the HPA 2016 are any easements, liberty, privilege, right or advantage annexed to land and adversely affecting other land. Those neighbouring landowners who enjoy such rights over the Cranwood site will be entitled to a right of compensation for loss of that right. They will not be able to seek an injunction and prevent the development from proceeding. The Council recognises the potential rights of third parties and will pay compensation where a legal basis for such payments is established.
- 5.29 It is not believed that the potential infringement of the third-party rights outlined here by the Cranwood development is a breach of human rights, being rights to private and family life. The engagement event on 30 November 2020 and 1 December 2020 and the formal planning consultation process that took place, did not raise any concerns that there were possible infringements of third party rights, including rights of light.
- 5.30 Regarding the value of potential compensation for the loss of third-party rights of access and or enjoyment, having undertaken the necessary checks against neighbouring properties, none have easements in relation to the site. Furthermore, no neighbouring properties have come forward asserting any rights of access or enjoyment. Based on these circumstances, it is unlikely that there will be any claims, but the level of compensation is unquantifiable until such a claim is made

although it is not likely to be so significant as to impact on the scheme's viability.

- 5.31 This report also seeks approval to appropriate the Cranwood, 100 Woodside Avenue site (outlined in red on the plan attached at Appendix 1) from planning purposes to the Housing Revenue Account in accordance Section 19(1) of the Housing Act 1985 for housing purposes after practical completion of the development. The reason is to enable the Council to use the land for housing and let thirty two new Council homes, in addition the sale of nine units will help meet local housing need, both affordable and private, as defined in the latest Haringey Housing Strategy.
- 5.32 Nine open market sale homes forming part of the scheme are proposed to be sold on the open market of which seven (flats) will be sold on a leasehold (125years) basis .and two (houses) will be sold on a leasehold (999years) basis with service charges to meet the maintenance requirements of the wider development including the landscaped courtyard shared by all residents and occupants regardless of tenure. Marketing and disposal of these homes would occur post practical completion. The anticipated total sale price for these units are set out in the exempt part of this report.

## **6 Contribution of Strategic Outcomes**

- 6.1 The recommendations in this report will support the delivery of the Housing Priority in the new Borough Plan, which sets out in its first outcome that *"We will work together to deliver the new homes Haringey needs, especially new affordable homes"*. Within this outcome, the Borough Plan sets the aim to *"Ensure that new developments provide affordable homes with the right mix of tenures to meet the wide range of needs across the borough, prioritising new social rented homes"*.
- 6.2 In particular, the recommendations in this report are explicitly about delivering the aim *"to deliver 3,000 new council homes at council rents by 2031"*. The proposals in this report contribute directly to the strategic outcomes on new housing supply that are at the core of the aims of the Council as expressed in the Borough Plan.
- 6.3 Furthermore, the mix of homes to be delivered on the Cranwood site (both private and affordable) will meet local housing need, as defined within the latest LB Haringey Housing Strategy'.

## **7 Statutory Officer Comments**

### **Legal**

- 7.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of the report.
- 7.2 The Council holds the site partly for general fund purposes and partly for housing purposes but will be carrying out a redevelopment which may affect third party rights. In order to override any third-party rights affecting the site, the Council will need to appropriate the site for planning purposes. The Council may appropriate land from one purpose to another under Section 122 of the Local Government Act 1972 and can appropriate for planning purposes in order to engage Section 203 HPA 2016. Section 122 LGA 1972 allows all the Council to appropriate for any



purpose for which the council is authorised by statute to acquire land by agreement any land which belongs to it and is no longer required for the purpose for which it is held immediately before the appropriation.

7.3. The requirements of Section 122 LGA 1972 are that:

- a) the site is Council owned land;
- b) the site is no longer required for housing purposes; and
- c) the Council is seeking to appropriate the land for the statutory purpose of planning.

7.4. The site does not contain open space.

#### Section 203 of the Housing and Planning Act 2016

7.5. By appropriating the land for planning purposes the Council is therefore able to engage the powers contained in Section 203 of the HPA 2016.

7.6 Under Section 203 the Council may carry out the development even it involves (a) interfering with a relevant right or interest (b) breaching a restriction as to use of land. This applies to building work where: -

- a) there is planning consent;
- b) the work is on land appropriated for planning purposes (as defined under section s.246(1) of the Town and Country Act 1990);
- c) the authority could acquire the land compulsorily (under section 226(1) of the Town and Country Planning Act 1990) for the purpose of the building work. This is because the land will facilitate the carrying out the development, re-development on or in relation to the land' or 'required for a purpose which is necessary to achieve the proper planning of an area in which the land is situated'. This requirement is satisfied as the Council considers that the development will lead to an improvement in the economic, social or environmental wellbeing of the areas as outlined in this report.

7.7. The requirements of Section 203 will be met once the appropriation takes place.

#### Appropriation for Housing Purposes

7.8. The Council will be seeking to appropriate the site back for housing purposes and be held within the HRA, following practical completion of the development. The Council can do so under Section 19 (1) of the Housing Act 1985. The legislation allows the Council as a local housing authority to appropriate for housing purposes any land for the time being vested in them and at their disposal. This appropriation is necessary as the new build units will be used for social housing by the Council and therefore must be held in the HRA. Where land is appropriated from one purpose to another there needs to be an appropriate adjustment in the accounts.

7.9 The disposal of the 9 for sale units will take place after practical completion of the development. These units will at that stage therefore be held for housing purposes and the Council has power under section 32 of the Housing Act 1985 to dispose of these units but must first obtain the consent of the secretary of state. The Secretary of State has issued some General Housing Consents 2013 and therefore specific consents may not be required if the conditions are met. However legal advice should be obtained on this once the general terms and conditions for the disposals are known.

## Contract and procurement

- 7.10 The contract which this report relates to has been procured under the Westworks Procurement Ltd CONST2018DPS (Development and Construction DPS route) for pre-tendered works, services and supplies for the public sector (Westworks DPS).
- 7.11 The Westworks DPS was procured in accordance with the Public Contracts Regulations 2015 (as amended) and Strategic Procurement have confirmed this is a compliant route to market.
- 7.12 The award of this contract is a Key Decision and, as such, the Council needs to comply with its governance processes in respect of Key Decisions including publication in the Forward Plan.
- 7.13 Cabinet has power to approve the award under CSO 9.07.1 (d) (award of contracts of £500,000 and above).
- 7.14 The Head of Legal and Governance (Monitoring Officer) sees no legal reasons preventing Cabinet from approving the recommendations in the report.

## **Procurement**

- 7.15 Strategic Procurement notes the update on the Housing Delivery Programme and recommendations within section 3.1 (3.1.2-3.1.5) of this report; however, comments are not applicable for property and land transactions as they sit outside of the Procurement Contract Regulations.
- 7.16 Strategic procurement notes the content of the report. The procurement has been conducted in line with the authority's contract standing orders and Public Contract regulations.
- 7.17 Strategic Procurement see no reason why the recommendation to enter into contract in accordance with clause 9.04.1 of the Contract Standing Orders as the recommended contractor's bid emerged as the most economically advantageous tender at the end of competition conducted on the Westworks Procurement Limited Framework Dynamic Purchasing System.

## **Finance**

- 7.18 The scheme will deliver 32 council homes for rent and 9 homes for private sales
- 7.19 It is listed in the HRA business and financial plan that underpins the current budget/MTFS and the total cost of the scheme can be contained within the current MTFS.
- 7.20 Further finance comments are contained in the exempt report.

## **Equality**

- 7.21 The Council has a Public Sector Equality Duty under the Equality Act (2010) to

have due regard to the need to:

- 6.16.1 Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- 6.16.2 Advance equality of opportunity between people who share those protected characteristics and people who do not
- 6.16.3 Foster good relations between people who share those characteristics and people who do not.

7.22 The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

7.23 The proposed decision relates to new build works to provide thirty two new Council homes at Cranwood and nine private for sale homes. The decision will increase the supply of homes which are genuinely affordable to local residents. This is likely to have a positive impact on individuals in temporary accommodation as well as those who are vulnerable to homelessness. Data held by the council suggests that women, young people, and BAME communities are over-represented among those living in temporary accommodation. Furthermore, individuals with these protected characteristics, as well as those who identify as LGBT+ and individuals with disabilities are known to be vulnerable to homelessness, as detailed in the Equalities Impact Assessment of the council's Draft Homelessness Strategy. As such, it is reasonable to anticipate a positive impact on residents with these protected characteristics.

7.24 As an organisation carrying out a public function on behalf of a public body, the contractor will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty as stated above.

## **8. Use of appendices**

- Appendix 1 – Plan - Red line Cranwood, 100 Woodside Avenue N10.
- Appendix 2 - Exempt – financial information
- Appendix 3 – Ownership Plan
- Appendix 4 – Exempt – Tender Report

## **9. Local Government (Access to Information) Act 1985**

9.1 Appendices 2 and 4 are NOT FOR PUBLICATION by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 in that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information).