

# **MINUTES OF CABINET MEMBER SIGNING MEETING HELD ON WEDNESDAY, 7TH DECEMBER, 2022, 2.00 - 2.15 PM**

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

**In attendance:** Robbie Erbmann, Assistant Director of Housing, and Fiona Rae, Acting Committees Manager.

## **1. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

## **2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

## **3. PARTRIDGE WAY GARAGES, N22 - AWARD OF CONSTRUCTION CONTRACT**

The Cabinet Member for Council Housebuilding, Placemaking, and Development considered the report which sought approval to appoint the recommended contractor to complete a new build development of 23 new Council homes comprising 14 x one-bed two-person flats, 7 x two-bed four-person flats, 1 x two-bed three-person wheelchair flat, 1 x two-bed four-person wheelchair flat on Council land at Partridge Way edged red on the Development Plan attached at Appendix 1 being the 'Partridge Way development site'. All 23 new council homes would be let at London Affordable Rents, pending Cabinet approval of the Provisional MTFS Budget on the 6<sup>th</sup> December 2022.

The report also sought approval of the appropriation of the land edged red on the Development Plan at Appendix 1 from housing for planning purposes to facilitate the development process which would also allow the Council to utilise its powers to override any third party interests and rights (subject to engagement with any potential claimants) and then to appropriate the land back to housing following practical completion of the development.

It was highlighted that all references to the Cabinet Member in the report should state the Cabinet Member for Council Housebuilding, Placemaking, and Development and that all references to the Director should state the Director of Placemaking and Housing.

It was noted that the Cabinet had approved the Provisional MTFS Budget on 6 December 2022.

## **The Cabinet Member RESOLVED**

1. To approve the appointment of Contractor A, identified in the exempt part of the report, to undertake the new build works to provide a total of 23 new Council homes let at London Affordable Rents (pending Cabinet approval of the Provisional MTFS Budget on 6 December 2022) at Partridge Way for a total contract sum set out in the exempt part of the report; and to approve the client contingency sum set out in the exempt part of the report.
2. To approve the appropriation of the Partridge Way development site edged red on the plan titled 'Development 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 the development as set out in part 6 of 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 and interests infringed upon by the Partridge Way development, under planning permission Ref: HGY/2021/2075.
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 genuine claims of third party rights affected by the Partridge Way development and payable as a result of the recommendation 3, within the existing scheme of delegation.
5. To approve the appropriation of Partridge Way development site edged red in the plan titled 'Development 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.
6. To approve the total scheme cost set out in the exempt part of the report.
7. To approve the issuance of a letter of intent for up to 10% of the contract value as set out in the exempt part of the report.
8. To consider the engagement and consultation carried out on this proposed scheme set out at clauses 6.6 to 6.9 of this report.

## **Reasons for decision**

The site known as Partridge Way was approved by Cabinet in July 2019 to be included in the Council's Housing Delivery programme. The scheme has subsequently been granted planning consent and is ready to progress to construction. This report therefore marks the third, and final, Members' decision to develop on this site.

Contractor A has been identified by a formal tender process to undertake these works.

There are no reasons for the Council to believe that any third-party rights would be infringed by the development: the scheme has received planning permission, and no concerns about the loss of rights were raised during extensive local engagement and consultation with residents. However, appropriation of the Partridge Way development site for planning purposes is recommended as a precaution. It will 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 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 23 new Council homes.

The site proposal will provide 23 much needed Council homes on Council land. Additional works will include enhancing both the existing estate open space and landscaping along Bounds Green Road on adjoining land lying north east of the Partridge Way development and shown within the site edged red on the 'Site layout' plan at Appendix 1. The proposals alleviate potential anti-social behaviour attracted to the site by an open, unsecured car park, improving a prominent estate boundary on Bounds Green Road.

### **Alternative options considered**

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 leave an underused car park site continuing to be vulnerable to anti-social behaviour and ongoing management issues.

This opportunity was procured via a competitive tender through the Westworks Procurement Ltd Development and Construction Dynamic Purchasing System, using JCT Design & Build Contract 2016 with amendments, the route recommended by Strategic Procurement for a contract of this value. Alternative options would have been either a competitive tender through the London Construction Programme (LCP) Major Works 2019 Framework Agreement or a direct appointment to one of the LCP framework providers. These options were both rejected: the first because an Expression of Interest exercise through the LCP was unsuccessful, and the second because of the quality and price safeguarding a competitive tender provides.

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 the scheme proceeded through the feasibility and design stages and any comments or objections raised were taken into consideration by Planning Committee 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, thereby not supporting the delivery of much needed affordable homes.

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

**RESOLVED**

That the press and public be excluded from the remainder of the meeting as item 5 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.

**5. EXEMPT - PARTRIDGE WAY GARAGES, N22 - AWARD OF CONSTRUCTION CONTRACT**

The Cabinet Member considered the exempt information.

CABINET MEMBER: Cllr Ruth Gordon

Signed by Cabinet Member .....

Date ... 7 December 2022.....