

Report for: Cabinet Member Signing
Title: New contractual arrangement with an existing Construction Company contracted with the Council

Report

Authorised by: Robbie Erbmann – Assistant Director Housing

Lead Officer: Anna Blandford – Head of Development

Report Prepared

by: Jack Goulde, Senior Housing Delivery Project Manager

Ward(s) affected: Noel Park, St. Ann's and Tottenham Green

Report for Key/

Non Key Decision: Key Decision

1. Describe the issue under consideration

- 1.1. This report seeks approval from the Cabinet Member for Council Housebuilding, Placemaking, and Development to terminate existing Construction Contracts with Contractor A for Sites 1,2 and 3 and simultaneously enter in to an alternative Construction Management Agreements for Sites 1,2 and 3 with Contractor A and direct Contracts with sub – contractors

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1 The Cabinet Member for Council Housebuilding, Placemaking, and Development is recommended to approve the mutual termination of Construction Contracts between the Council and Contractor A at Sites 1,2 and 3.
- 3.2 Approve a Contract for Construction Management between the Contractor A for Sites 1, 2 and 3 at a fee of 4% of the outstanding costs to complete fixed at the date of entry in to the Construction Management Contract with no mechanism for uplift.
- 3.3 Approve direct award Contracts between the Council and nominated sub contractors for the Sites 1,2 and 3 and delegate to the Director of Placemaking and Housing authority to award individual sub contracts subject to approval from the Head of Procurement to each of those direct awards and approval from the Head of Legal and Head of Finance (Housing) to the terms of those direct awards.
- 3.4 Exempt
- 3.5 Approval to delegate to the Assistant Director of Housing authority to sign off any instructions that may be required to be discharged from the contingencies we are seeking approval for in this Report.

4. Reasons for decisions

4.1. To ensure that the Council's Housing Delivery Programme continues to provide high quality Council Housing at affordable rents, constructed to a good standard and made available to new Tenants as soon as possible in accordance with the Council's overriding Policy objective of providing 3,000 new Council Homes by 2032.

5. Alternative options considered

5.1. Following discussions with Contractor A, which accord with the Mediation Provisions of the JCT (Joint Contracts Tribunal), the Council have considered a number of mitigations which include:

- a. Increasing the spend on Sites 1, 2 and 3 without additional Contractual variations, or, financial checks – This mitigation would not satisfactorily protect the Council's financial position.
- b. Terminate the Contracts on Sites 1, 2 and 3 either by mutual consent, or, by virtue of Contractor A having to enter insolvency – This mitigation would require the Council to reprocure all of those Works at costs that would be disproportionately high.

5.2. It is considered that neither of the alternatives listed above would meet the Council's value for money requirements and would result in an unacceptable delay to the completion of much needed Council Housing in the Borough.

6. Background information Exempt

7. Contribution to Strategic Outcomes

7.1. 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"*.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Head of Legal and Governance, Equalities)

8.1. Legal

8.1.1. The Head of Legal Services (Monitoring Officer) has been consulted in the drafting the report.

8.1.2. Pursuant to Contract Standing Order 16.02 a Cabinet Member with the relevant portfolio responsibilities has authority to approve the recommendations in this report.

8.1.3. The Head of Legal and Governance (Monitoring Officer) sees no legal reasons preventing the Cabinet Member for Council Housebuilding, Placemaking, and Development from approving the recommendations in the report.

8.2. Procurement

8.2.1. Strategic Procurement support this proposal and believe it is permissible under clause 72-(1) (d) of the Public Contracts Regulations which allows for modifying a contract in the case of insolvency (although Contractor A are not insolvent failure to take these measures would very likely have resulted in Contractor A's insolvency).

8.3. Finance

8.3.1. Exempt

8.4. Equality

8.4.1. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

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

8.4.2. 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.

8.4.3. The proposed decision relates to new build works on Sites 1, 2 and 3.

8.4.4. The decision will increase the supply of Council rented homes 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 LGBTQ+ and individuals with disabilities are known to be vulnerable to homelessness.

8.4.5. It is further noted that some of the new homes are fully accessible for wheelchair users which will benefit residents with certain disabilities. As such, it is reasonable to anticipate a positive impact on residents with these protected characteristics.

8.4.6. 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. Appropriate contract management arrangements will be established to ensure that the delivery of the major works does not result in any preventable or disproportionate inequality.

8. Use of appendices

Appendix 1 – NOT FOR PUBLICATION - Exempt financial information relating to Construction Contracts with Contractor A.

9. Local Government (Access to Information) Act 1985

- 9.1.** Appendix 1 is NOT FOR PUBLICATION by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information)