

Report for: **Cabinet - 7<sup>th</sup> November 2023**  
Title: **Nightingale Lane, N8 and St Mary's Close, N17 new housing development – approval of the total scheme budget increase**  
Report  
Authorised by: **Robbie Erbmann, Assistant Director of Housing**  
Lead Officer: **Anna Blandford, Head of Development, Placemaking and Housing**  
Ward(s) affected: **Hornsey & Tottenham Hale**  
Report for Key/  
Non Key Decision: **Key Decision**

## **1. Describe the issue under consideration**

- 1.1. This report seeks approval to increase the total scheme budget to complete construction of five Council homes on the Council owned land at Nightingale Lane (NGL), N8 and St. Mary's Close (SMC), N17. The planning consent was granted in March 2020 for NGL and in July 2020 for SMC. The works started on site in January 2021. However, following repeated underperformance by the appointed contractor the Council terminated the contract in April 2023. Subsequently, the process to appoint a new contractor to complete the development has been underway since late Spring. The financial details are contained in Appendix 1 - Part B Exempt of this report.
- 1.2. The report also seeks Cabinet approval to appoint Contractor A to complete the works on both sites. The financial details are contained in Appendix 1 - Part B Exempt of this report.

## **2. Cabinet Member Introduction**

- 2.1 The schemes at Nightingale Lane and St. Mary's Close will provide much needed homes for five households. These high-quality homes will have extremely low energy costs, plenty of green space, and carbon reductions that far exceed statutory standards. The schemes bring real improvements to the local neighbourhoods by completing the formerly vacant junction corner at Nightingale Lane and Brook Road in Hornsey, and by replacing a little-used car park in Northumberland Park.

Despite the Council's attempts to work with the original contractor to resolve ongoing issues, the Council terminated the contract earlier this year due to repeated underperformance on behalf of the contractor. It is now necessary to appoint a new contractor to complete the works on these homes, which will incur an additional cost in line with inflation and rising building costs.

## **3. Recommendation**

- 3.1. It is recommended that Cabinet approves increase in total scheme budget as described in Appendix 1 - Part B Exempt of this report in order to complete the works to the newly constructed homes.
- 3.2. It is recommended that the Cabinet approves pursuant to the Council's Contract Standing Orders (CSO) 9.07.01a, the appointment of Contractor A (named in the Appendix 1 - Part B Exempt part of the report) to undertake building works to complete the provision of five Council rented homes at 42 Nightingale Lane, N8 and 5 & 7 St. Mary's Close, N17 for a total contract sum of £205,359.
- 3.3. It is recommended the Cabinet approves the scheme contingency sum as set out in the

## Appendix 1 - Part B Exempt.

- 3.4. It is recommended that Cabinet approves issuance of the Letter of Intent to the 10% of the contract value as allowed under CSO 9.07.3 to expedite the works in advance of execution of the contract.

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

- 4.1. In September 2020 Cabinet approved the award of a JCT Design and Build contract with the Contractor B to deliver 2 x 3 bed homes at St Mary's Close and 2 x 1 bed and 1 x 2 bed flats at Nightingale Lane with approved budget as outlined in Appendix 1 Part B exempt information.
- 4.2. The works started on both sites in January 2021. In Autumn 2021 the Council first became concerned about the Contractor's overall performance. From Autumn 2021 and throughout 2022 Council officers successfully worked with the Contractor B to improve their performance through weekly monitoring meetings chaired by an independent Employers Agent. This was initially successful resulting in satisfactory improvement to their work on both sites.
- 4.3. In late 2022 due to several factors including issues with third party utilities and sub-contractors going out of business work on site slowed down. At the start of 2023 it seemed the Contractor was taking the right steps to resolve the issues by commissioning a reliable sub-contractor to complete the outstanding works. However, alongside this the Contractor was also having financial difficulties that they were not transparent about and this eventually resulted in work halting on site.
- 4.4. In March 2023 the Contractor decided to withdraw from the sites and therefore breached the contract's conditions. The Council followed the contract's termination process with the final termination notice issued on 20<sup>th</sup> April 2023.
- 4.5. An approval to increase the overall scheme budget is now required to cover the cost of works completion and associated additional fees. These include additional Employer's Agent and Clerk of Works fees, legal costs and security costs. It is important to note that the scheme is c.85% completed. However, the uncompleted buildings are currently at risk of theft, damage, vandalism, or an unauthorised entry. In fact, squatters moved into SMC homes shortly after the contractor vacated sites and the Council had to follow a Possession Order process, which was served promptly. The properties have been secured to mitigate the above risks, but it is in the Council's best interest to complete the works as soon as possible and secure tenancies to remove the risk completely.
- 4.6. The recommended issuance of the Letter of Intent may not be necessary, as we will make every effort to have a contract in place once the recommendations in this report are approved. However, if it is required it will allow the contractor to carry out minor external works to prevent deterioration of the building.

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

- 5.1. Doing nothing would mean that the nearly completed homes will be empty and the Council will be unable to rent them to residents on our waiting lists, a key priority through the Council's housing delivery programme. There will also be a loss of rental income. Furthermore, the buildings if left in their current state will be prone to more squatting and deterioration if not completed promptly.
- 5.2. The Council considered an option of negotiating completion of the works with the contractor. However, the contractor subsequently became financially insolvent and

entered Company Voluntary Arrangements, as such this option is no longer viable.

- 5.3. A direct award option to a suitable sub-contractor with experience of working on the schemes has also been considered. However, it was considered more important to ensure value for money is achieved on completing the contracts by running a competitive tender in parallel with the Cabinet governance process seeking an uplift in the overall scheme budget.

## **6. Background information**

- 6.1. As set out in Appendix 1 - Part B exempt from this report.

## **7. Contribution of 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. Carbon and Climate Change**

- 8.1 The properties design has adopted a fabric first approach with improved u-values and a high air tightness. The houses and flats are supported by mechanical ventilation with heat recovery systems and electrical heating using Air Source Heat Pumps. The proposed-on site CO<sub>2</sub> saving will be: 58.7% CO<sub>2</sub> over building regulations. The heat pumps at St. Mary's Close are located at the rear of the houses within acoustic enclosures and at Nightingale Lane at roof level also with acoustic enclosures.
- 8.2 New soft landscaped gardens at St. Mary's Close increase soak away and reduce rainwater runoff and enhance biodiversity on site. At Nightingale Lane a living roof has been installed on flat roofs on the main building and cycle and refuse store.

## **9. Statutory Officers comments**

### **9.1. Legal**

- 9.1.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in drafting the report.
- 9.1.2 Cabinet has authority to approve the recommendations in the report.
- 9.1.3 The Head of Legal and Governance (Monitoring Officer) sees no legal reasons preventing Cabinet from approving the recommendations in the report.

### **9.2 Procurement**

- 9.2.1 The total new contracts values to complete these projects are less than £500k and a compliant process has been undertaken in accordance with 9.01 in obtaining at least 3 competitive quotations, Strategic Procurement support this process.

### **9.3 Finance**

- 9.3.1 The expenditure to August 2023 for both schemes is within the September 2020 approved budget. The schemes have been financially compliant.
- 9.3.2 The additional cost can be contained within the HRA.

## 9.4 Equality

- 9.4.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- 9.4.2 Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- 9.4.3 Advance equality of opportunity between people who share those protected characteristics and people who do not
- 9.4.4 Foster good relations between people who share those characteristics and people who do not. Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.
- 9.4.2 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.
- 9.4.3 The proposed decision relates to new build works to provide five new Council rented homes at Nightingale Lane and St Mary's Close.
- 9.4.4 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.
- 9.4.5 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.

## 10 Use of appendices

Appendix 1 – Part B Exempt – Financial information

## 11 Local Government (Access to Information) Act 1985

- 11.1 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 they contain information relating to the financial or business affairs of any particular person (including the authority holding that information).