

Report for: Cabinet Meeting. 17th September 2024.

Title Contract Award for the Contractor for the former Moselle School site

Report authorised by : David Joyce, Director of Placemaking and Housing

Lead Officer: David Sherrington, Programme Director

Ward(s) affected: West Green

**Report for Key/
Non Key Decision:** Key Decision

1. Describe the issue under consideration

- 1.1 This report represents a major milestone in the Broadwater Farm regeneration programme and will bring forward a contract for the first new homes to be built on Broadwater Farm in over 50 years.
- 1.2 New homes are just one part of a much wider £250m programme of regeneration that has been developed in partnership with residents and wider stakeholders and which has been ongoing since 2019. The programme includes 294 new homes, 800 retrofitted existing homes, improvements to the public realm, socio-economic activities aligned to the needs of the estate and work to make sure our day-to-day housing service is excellent.
- 1.3 Cabinet is asked to approve the award of a contract to build Phase 1(a) of the Broadwater Farm new homes programme. Phase 1(a) is made up of 40 new homes and one commercial unit on the Former Moselle School Site, Adams Road, N17 edged blue on the plan at Appendix 1.
- 1.4 The development will comprise 13 one-bedroom flats, 13 two bedroom flats, 10 three bedroom and 4 four -bedroom homes with four of the two bedroom flats being fully accessible to wheelchair users. It also includes a retail unit. The rent levels of the new units will be in line with the rent policy agreed by Cabinet in December 2021.
- 1.5 Homes will initially be offered to those tenants decanted from Tangmere and Northolt under the Broadwater Farm Rehousing Policy. Any homes available thereafter will be let using the Neighbourhood Moves Policy.
- 1.6 The Site was previously occupied by Moselle School until it closed in November 2011. The Site has not been used as a school for over 10 years and is currently vacant land. As part of the Broadwater Farm Regeneration programme, the Council applied to the Department for Education to be able to appropriate the Site as housing and was granted Department for Education consent. A variation of that consent from the Department of Education was obtained to

reconfigure the boundary between the Site and the Brook Special School and Willow Primary School site to the west, which will involve an exchange of education land and housing land for its proposed uses following completion of the works.

- 1.7 In order to facilitate the development and the changes in the use of Council land, Cabinet is being asked to approve use of the Council's powers to appropriate the Site in accordance with the Department of Education consents from education purposes, for planning purposes which will permit the Council to utilise the statutory powers to override easements and any other third party rights and interests, to allow the development to proceed, and then to appropriate part of the Site from planning purposes to housing purposes (in accordance with the varied consent from the Department of Education), and part of the Site from planning purposes back to education purposes, following practical completion of the works.

2 Cabinet Member Introduction

- 2.1 I am delighted to present to Cabinet this report which represents a major milestone in our plans to transform the Broadwater Farm estate. Through this first phase we will provide much needed family accommodation with 14 of the forty new homes three bed and above. A further 254 new homes will come forward in future phases as the regeneration programme progresses.
- 2.2 These plans have been developed in close consultation with residents who supported our plans overwhelmingly through an estate wide ballot in 2022. The engagement work included co-design of new homes, outreach to under-represented groups, work with stakeholders and extensive interaction through door knocking, surveys and pop-up events. It is an outstanding example of the Haringey Deal in action.
- 2.3 Alongside our work with residents, the Council has worked in close collaboration with stakeholders including the Broadwater Inclusive Learning Campus (BILC) to ensure plans support the already outstanding services provided for children. As part of the development a new play area for the school will be provided and the contract will include funding for a school crossing patrol officer for two years to enhance road safety. This builds on work already completed this summer to enhance road safety by installing two new zebra crossings.

3. Recommendations

It is recommended that Cabinet:

- 3.1 Approves the appointment of Contractor D (identified in the exempt part of the report) to undertake new build works to provide a total of forty (40) Council rented homes and retail unit at Ground Floor (to shell and core) for a total contract sum as set out in the EXEMPT Report.
- 3.2 Approves the appropriation of the Site edged blue on the plan at Appendix 1

from education purposes for planning purposes under section 122 of the Local Government Act 1972 as it is no longer required for the purposes for which it is held, and for the purpose of carrying out the development as described in 6.46 and 6.47 of this report.

- 3.3 Approves 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 of the Site which may be affected by the former Moselle School development under planning permission Ref: HGY/2022/0823.
- 3.4 Delegates to the Director Placemaking and Housing, in consultation with the Director of Finance, authority to make payments of compensation as a result of any valid claims of third-party rights affected by the Former Moselle School development and payable as a result of recommendation 3.6, within the existing scheme of delegation.
- 3.5 Approves the appropriation of the Site comprising the land hatched and edged red on the plan at Appendix 1 from planning purposes to housing purposes under section 19 of the Housing Act 1985 after practical completion of the development scheduled for April 2026, in accordance with consent dated 4th November 2019 as varied by the consent dated 9 December 2021 from the Department for Education, a copy at Appendix 2. The land is valued at £640,000.
- 3.6 Approves the appropriation of the Site comprising the land hatched blue shown on the plan at Appendix 1 from planning purposes to education purposes, in accordance with consent dated 4th November 2019 as varied by the consent dated 9 December 2021 from the Department for Education, a copy at Appendix 2.

4. Reasons for decision

- 4.1 In March 2022 85% of those eligible Broadwater Farm residents who voted in the ballot, supported proposals for new homes on the estate through an estate wide ballot. These proposals included homes on the former Moselle School site on Adams Road. The overall masterplan and new homes proposal received planning consent in December 2022.
- 4.2 The former Moselle School was demolished in 2021 and prior to this date had been empty since 2011 following the construction of a new school next door.
- 4.3 The Council had originally planned to deliver the whole scheme through a main contractor via a two-stage tender. A contractor was appointed under a pre-construction Services Agreement but unfortunately the Council was unable to agree commercial terms on the first phase and the contract was terminated in the summer of 2023.
- 4.4 A new procurement strategy was agreed for the new homes programme and Phase 1(a) was procured individually through an open market process. The

procurement strategy for future phases will be determined as the programme progresses and will be subject to the market conditions at the time.

- 4.5 In order to progress the scheme Cabinet is recommended to award the contract as set out and agree the land appropriations.

5. Alternative options considered

- 5.1 The Council could have adopted a different procurement strategy for the site including procuring all new homes works in one package. The Council did initially take this approach but it was unsuccessful.

- 5.2 The Council could have decided to leave the land for education use. An assessment of need was undertaken at the time and it was determined that the land was not required for education purposes.

- 5.3 The Council could decide not to develop the land and leave it empty. The Council has however made commitments to residents and wider stakeholders to regenerate the estate and this scheme is an important element of this work. Failure to develop these homes would mean the Council is not delivering on its commitments as set out in the ballot.

- 5.4 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.

6. Background information

Broadwater Farm Improvement programme

- 6.1 Six years ago the Council took the difficult decision to demolish two blocks (Tangmere and Northolt) on the Broadwater Farm estate following the identification of serious structural issues. This decision followed a consultation pursuant of Section 105 of the Housing Act 1985 (Section 105 consultation).

- 6.2 Since this decision, the Council has worked in partnership with residents to develop ambitious proposals to regenerate the whole estate with £250m of planned investment delivering nearly 300 new homes, retrofitted existing homes and improvements to the public realm.

- 6.3 From the beginning residents have been integral to the proposals developed. They have worked alongside architects and officers to develop designs for new homes that will provide seriously needed family sized homes, improvements to green and open spaces and upgrades to existing homes. The work received

strong support from residents through a ballot where 85% voted yes to the proposals. Broadwater Farm residents and those that have moved off the estate are prioritised for the new homes when they are ready.

6.4 While this report deals with the first phase of new homes, regeneration work has already started. To date the council has:

- Upgraded kitchens and bathrooms to more than 250 homes
- Installed a £20m district heating system estate wide
- Delivered improvements to the site accommodation for front line estates operatives
- Upgraded CCTV to a state-of-the-art estate wide Estate Watch
- Installed two zebra crossings to improve safety for school children
- Demolished the Tangmere block and old Moselle school
- Upgraded lighting across the estate's under-crofts
- Commenced a £5.5m project for fire safety replacing all front doors and communal doors
- Completed a package of enabling works to support the future construction work

6.5 To support the demolition, the rehousing team worked sensitively with tenants and leaseholders to support their onward moves. 198 tenants and 30 leaseholders have moved from the estate and have the right to return to new homes once ready.

6.6 Alongside construction work, the Council has ambitious programmes around socio-economic work and improvements to the core housing service. Through the socio-economic programme the Council is providing:

- A weekly hot food kitchen and holistic hub that attracts more than 60 residents every week
- A weekly food bank for residents
- Activities for young people including Roller Skating, arts and crafts and music making
- Helped more than 100 residents into employment
- Launched a weekly IT session
- Re-activated the community centre with regular provision
- Provided health check-ups
- Enabled residents to start two community terrace gardens
- The introduction of a Scouts Group via the school

6.7 Alongside our socio-economic work, the project team work to enhance the day-to-day experience. Work includes:

- A weekly repairs surgery
- Regular door knocking so that a member of Council staff knocks on every door on the estate at least twice every year to discuss issues
- Deep cleaning across the estate
- Closer working relationships with ASB teams and local police teams
- Improved repairs diagnosis and response times

- Quarterly estate walkabouts with residents

Former residents of blocks being demolished

- 6.8 All secure tenants and resident leaseholders who have moved from Tangmere, Northolt and Stapleford North under the Broadwater Farm Rehousing and Payments Policy (approved in 2018) retain the Right to Return to the new council homes once complete.
- 6.9 The Broadwater Farm rehousing team are in contact with former residents to ensure they are aware of the progress to build new homes and their options to return should they wish to do so.
- 6.10 The rehousing team will soon start contacting former residents to gauge interest in the new homes once complete. Any homes not let to former residents will be offered through the Neighbourhood Moves Scheme.

Resident Ballot

- 6.11 In December 2021 Cabinet approved a report which set out in detail the proposals for new homes (including the demolition and reprovision of Stapleford North) and other improvements to the Broadwater Farm estate and gave authorisation to present these proposals to residents of the estate in a resident ballot.
- 6.12 This ballot was overseen by Civica Election Services and carried out between 11 February 2022 and 7 March 2022 in accordance with the Greater London Authority's (GLA) guidelines for estate regeneration ballots.
- 6.13 Out of 1,073 eligible voters, 590 (55%) voted in the ballot. 502 (85.1%) voted 'yes' in favour of the proposals. The proposals for the Moselle site are in line with the details provided to residents through the Landlord Offer.

Design and Planning

- 6.14 The December 2021 Cabinet report also sought approval for the high-level principles for new homes on the estate and the Urban Design Framework for the estate.
- 6.15 This followed 16 months of engagement work with residents and stakeholders to develop designs for the new homes on the estate. Further information about resident involvement in the designs can be found in the consultation report appended to the December 2021 decision.
- 6.16 Following the successful ballot result, a planning application was submitted on 21st March 2022. The scheme received full planning approval in December 2022. As part of the planning conditions the council was required to appoint a monitoring architect to oversee the final development of design and build. This was to ensure that the design retained its integrity through the next phases.

Pitman Tozer architects were appointed and have confirmed that the Moselle design is in line with the scheme that has received planning consent.

- 6.17 There are three associated pre commencement conditions of which two are discharged and the remaining one needs to be submitted. The remaining pre commencement condition requires input from the appointed Design & Build contractor as it covers the Construction Management Plan and Construction Logistics Plan. This will be submitted and approved during the mobilisation period prior to starting on site.
- 6.18 Phase 1(a) is made up of 40 new homes and one commercial unit on the Former Moselle School Site, Adams Road, N17. The development will comprise 13 one-bedroom flats, 13 two-bedroom flats, 10 three-bedroom and 4 four-bedroom homes, with four of the two-bedroom flats being fully accessible to wheelchair users. It also includes a retail unit. The development will lead to an improvement in the economic, social and environmental wellbeing of the local area.

Enabling works for Phase 1(a)

- 6.19 In 2021, demolition of the old Moselle school was undertaken. This is the only demolition works required to facilitate Phase 1(a) of the new homes programme.
- 6.20 In March 2024, a contract was let to build a haul road on the estate to ensure that construction traffic could enter and leave the site without having to navigate past the school or Children's Centre. As part of these works, a temporary car park was also built for the school as the new development requires the re-orientation of the existing car park. This contract was concluded in July 2024.
- 6.21 Further demolition works are underway across the site to enable future phases.

Procurement and tender process

- 6.22 Under the original procurement approach the council had procured a main contractor via a two-stage tender using the LCP Major Works Framework and appointed a contractor under a Pre-Construction Services Agreement. However, the council was unable to agree a price with the selected contractor and the contract was terminated in the summer of 2023.
- 6.23 The project team subsequently agreed a new procurement strategy and the Moselle site is the first of the sites to be re-tendered. The procurement strategy for further phases will be determined in line with the master programme and subject to prevailing market conditions at the time.
- 6.24 This opportunity was procured via an open competitive tender via the Restricted Procedure which was open to all qualifying contractors. The first stage invited contractors to tender via a Selection Questionnaire with a full set of Tender Documents and using JCT Design & Build Contract 2016 with amendments.

- 6.25 A shortlist of six contractors were invited to tender via an Invitation to Tender (ITT). The tender was weighted 50% quality; 10% social value; 40% price. Of the six invited to tender, five contractors chose to submit a tender.
- 6.26 Mid-tender clarification interviews were held with the six contractors selected after the Selection Questionnaire submissions and post-tender meetings were held with all contractors who responded to the invitation.
- 6.27 Five compliant tender returns were received and the quality submission was assessed by LBH officers and the Project Manager from the Council's appointed Employers Agent/Project Manager (Alban LLP). A moderation meeting was held to agree the final quality scores, which were then combined with the pricing and social value evaluations to determine the order of the bidders.
- 6.28 AMP and Alban sought and obtained clarifications from the tenderers to eliminate risk items and to allow for any unpriced items to be included.
- 6.29 Airey Miller LLP, the Project's Quantity Surveyors, undertook the tender price evaluation and Alban provided the final tender evaluation report, combining the quality, price and social value scoring. The outcome of the evaluation can be found in the exempt report.

Programme

- 6.3 A programme of works will be finalised with the winning contractor once appointed. The programme for the winning contractor included within the tender submission indicated that initial site setup will commence in the Autumn with the full build process commencing in the new year. The build is likely to conclude in the second quarter of 2026.

Construction Management Plan

- 6.31 To ensure the successful delivery of this programme, and to minimise disruption to residents, the construction logistics plan will be essential.
- 6.32 Tenderers submitted detailed Construction Management Plans which will be finalised once the winning contractor is appointed.
- 6.33 Throughout the delivery stage, a Construction Management Officer will be in place to ensure proper co-ordination and the minimisation of disruption between sites and other programmes that will be on site at the same time. As part of the project a school crossing patrol officer (SCPO) will be employed to improve safety on Adams Road. Two zebra crossings have been installed on Adams Road to improve road safety as part of the wider works on the public realm.

Risk Management

- 6.34 The ITT required each contractor to set out a comprehensive tender stage risk assessment and framework for risk management. This risk assessment will be

reviewed and finalised as part of the project mobilisation and will be monitored monthly by the project team.

Social Value

- 6.35 10% of the evaluation criteria was based on a social value submission which was assessed by the Social Value Portal, the council's agreed methodology for assessing and monitoring social value.
- 6.36 The Broadwater Farm project team includes a Socio-Economic Manager who will be responsible for overseeing the delivery of the social value commitments and reporting outputs to residents and stakeholders.

Finance and value for money

- 6.37 Financial provision for the Broadwater Farm New homes programme is included within the refreshed Housing Revenue Account business plan.
- 6.38 The total scheme costs for Broadwater Farm increased in the latest refresh due to significant build cost inflation. This has been compounded by increasing interest rates which have negatively impacted the overall scheme Net Present Value (NPV).
- 6.39 The current NPV has a significantly negative impact on the council's overall Housing Revenue Account which in turn puts pressure on other demands within the HRA.
- 6.4 As such, the project team are working through all available options to improve this position through the next phases of the contract as set out in section 6.44.
- 6.41 In respect of this contract award, the project cost consultant has confirmed the tendered price reflects value for money and is under the pre-tender estimate. Extensive clarifications through the tender process and post tender engagement with each tenderer has further improved the robustness of the tendered sums.
- 6.42 Further information on finance and value for money is included in the exempt section.

Communications and engagement

- 6.43 A communications plan and resident engagement approach for phase 1(a) will be rolled out once the Moselle contractor is appointed. The activities will form part of the overall communications and engagement plan for the estate wide regeneration programme.

Future phases of work

- 6.44 Beyond Phase 1(a) there are a further 254 homes to be delivered in future phases. Designs for these homes are currently at RIBA 3 and a new design

team has been appointed in recent months to finalise designs and to ensure they comply with legislation in the Building Safety Act as the original design was carried out before the Act came into force.

- 6.45 RIBA 4 design work has started on Phase 2 (131 homes) and will be commenced on future phases in line with the master programme to negate possible abortive costs linked to possible changes in legislation.

Land appropriation

- 6.46 The site is currently held for education purposes by the Council. On 4 November 2019 the Department for Education (DfE) gave consent for the Council to appropriate the land shown edged blue and on 9 December 2021 that consent was varied. That variation allowed the boundary to be reconfigured between the site and the two schools (Brook Special School and Willow Primary School) involving the disposal of 246 sqm of non-playing field land at the two schools in exchange for the provision of 246 sqm of soft playing field space from the site. The Council is to ensure that the soft playing field space to be transferred to the two schools meets the DfE's output specification. The new school area is being designed in partnership with the school and will provide much needed additional amenity for children. Those works will be carried out as part of the development works.
- 6.47 In order for the Council to carry out the housing development, the Council will first need to appropriate the site for planning purposes. Once completed the homes will need to be held within the Housing Revenue Account and therefore must be appropriated for housing purposes. However, in carrying out the development, that development may infringe third party rights which the site is subjected to, such as easements and rights of light and air. Those whose rights are being infringed may seek an injunction thus preventing the Council from carrying out the development. In order to prevent this from happening, the Cabinet is being asked to appropriate the site currently held for education for planning purposes. This would allow the Council to rely on the provisions of Section 203 of the Housing and Planning Act 2016 ("HPA 2016"). Under that section the Council would be able to override third-party rights infringed by the development and would be able to prevent those affected from seeking an injunction. Instead, they would be entitled to compensation and a delegated authority is being sought to allow the director to agree such compensation.
- 6.48 In accordance with the Recommendations at 3.2, 3.5 and 3.6 and in order to facilitate the development and the changes in the use of Council land, Cabinet is being asked to approve use of the Council's powers to appropriate the Site in accordance with the Department of Education consents from education purposes to planning purposes which will permit the Council to utilise the statutory powers to override easements and any other third party rights and interests, to allow the development to proceed, and then to appropriate part of the Site from planning purposes to housing purposes (in accordance with the varied consent from the Department of Education), and part of the Site from planning purposes back to education purposes, following practical completion of the works.

7. Contribution to the Corporate Delivery Plan 2022-2024 High level Strategic outcomes'

- 7.1 The scheme will contribute to the 'Responding to the Climate Emergency' theme in the Corporate Delivery Plan (CDP), presented to Cabinet on 17th January 2023. In particular, the ambition for a Low Carbon Place by achieving net zero emissions on the new homes programme on Broadwater Farm. It will also support Haringey's Climate Change Action Plan – which sets out how and why the borough will become net zero carbon by 2041.
- 7.2 The scheme is part of the Council's broader Housing Delivery Programme and will play a role in achieving the outcomes under the CDP theme: 'Homes for the Future'. In particular, the targeted outcomes to achieve 'an increase in the number and variety of high-quality and sustainable homes in the borough' and 'an improvement in the quality of housing and resident services in the social rented sector'.
- 7.3 The scheme will support housing growth in a key regeneration area and will make a meaningful contribution to the Council's target of 3,000 homes by the end of 2031 and the provision of 10 three-bedroomed and four four-bedroom homes will help to address the acute need for larger affordable homes.
- 7.4 The scheme will support social value and placemaking in a key regeneration area (Broadwater Farm) under the CDP theme 'Placemaking and Economy'. The Social Value commitments made by contractors will deliver measurable and impactful training, employment and social opportunities. The Broadwater Farm improvement programme - 294 new homes, public realm improvements, refurbished homes, improved service delivery, embedded co-production approach, 250 homes demolished will help to deliver the placemaking ambitions of the BWF community.

8. Carbon and Climate Change

- 8.1 The energy strategy for the Broadwater Farm development has been developed in line with the energy policies of the London Plan and of the London Borough of Haringey Local Plan policies. Broadwater Farm is expected to meet the minimum 35% CO2 reduction from on-site measures as required by the London Plan policy. Remaining carbon emissions to reach the zero-carbon target will be offset by an 'over-provision' of new low carbon heating to serve existing dwellings served by the upgraded energy centre.
- 8.2 The key sustainable design and construction measures incorporated in the new homes scheme are set out below:
 - The inclusion of low carbon and renewable technologies through the specifying of air source heat pumps (or alternatively through connection to the Edmonton Energy from Waste centre) and photovoltaics.
 - The promotion of sustainable forms of transport through the provision of 70 cycle parking spaces on the Moselle Development and 592 overall.

- An Increase in the urban greening factor of the estate by providing more community parks, play areas, balconies and terraces and the protection of natural features of ecological value and the improvement of biodiversity on site through on-site landscaping as far as possible.
- Reducing surface water run-off from site through the incorporation of permeable paving and underground attenuation tanks and incorporating large areas of green roofs to enhance the biodiversity and also further reduce surface water run-off.
- The specification of water efficient fittings to limit water consumption to dwellings to 105 litres/person/day.
- Efficient design of the proposed massing, openings and internal layouts so that spaces benefit from abundant daylight and sunlight levels, whilst overheating and impacts to neighbouring buildings are minimised together with specification of high-performance fabric and glazing to minimise heat losses and insulated pipework and efficient lighting to minimise heat generated internally.
- Minimising on-site NOx emissions and fossil-fuel combustion by specifying low NOx boilers as well as effective pollution management and control.
- The development is not expected to cause any significant adverse effects to air, noise, land, or watercourses.

9. Statutory Officers comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

9.1 Finance

This contract represents phase 1a of the entire Broad Water Farm (BWF) new build scheme.

This phase of the BWF new build scheme will deliver 40 new homes units and one commercial unit.

This entire BWF new build scheme is included in the HRA financial plan albeit financial viability challenge with the overall scheme.

This phase of the scheme in isolation appears viable and can be contained within the BWF new build budget.

Further Finance comments are contained in the exempt report.

9.2 Procurement

- 9.21 Strategic Procurement (SP) note that this report relates to the approval to award a contract to Tenderer D to undertake new build works to provide a total of forty (40) Council rented homes and retail unit at Ground Floor (to shell and core).

- 9.22 SP note that a competitive tender was launched using the restricted procedure as the route to market. The adopted procurement is in line with Contract Standing Order (CSO) 9.01.2(b) and Regulation 28 of the Public Contracts Regulations.
- 9.23 The Tenderers' bid submissions were evaluated in accordance with the scoring methodology contained within the published Invitation to tender document.
- 9.24 Bid evaluation was based on price and quality and the preferred bidder's submission demonstrates value for money.
- 9.25 SP support the recommendation to approve the award in accordance with CSO. 9.07.1 (d)

9.3 Assistant Director of Legal & Governance

Contract

- 9.31 The contract value is above the threshold where the tendering requirements for works as set out in the Public Contracts Regulations 2015 apply.
- 9.32 The Council has followed a restricted procurement procedure which is a permitted form of procurement under the Public Contracts Regulations 2015 (Reg 28).
- 9.33 The Cabinet has power to approve the recommendations under CSO 9.07.1 (d) (contracts valued at £500,000 or more).
- 9.34 The award of the Contract is a Key Decision and, as such needs to comply with the Council's governance arrangements in respect of Key Decisions.

Appropriation

- 9.35 The Council may appropriate land from one purpose to another under Section 122 of the Local Government Act 1972 ("LGA 1972").
- 9.36 Section 122 LGA 1972 allows 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.
- 9.37 As the land is held for education purposes the Council has obtained the consent of DfE to appropriate the land hatched red on the plan at Appendix 1 from education purposes to housing purposes.
- 9.38 However the appropriation of land under S122 shall be subject to the rights of other persons in, over or in respect of the land concerned and the site does not contain open space.

9.39 The appropriation of the land edged blue on the plan from education to planning purposes will allow the Council to develop the land but in carrying out the development third party rights may be affected. In order to override any third-party rights affecting the site, the Council will first need to appropriate the site for planning purposes in order to engage Section 203 of the HPA 2016.

9.40 Overriding third party rights

9.41 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: -

- there is planning consent;
- the work is on land appropriated for planning purposes (as defined under section s.246(1) of the Town and Country Act 1990);
- 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 area as outlined in this report through the building of social housing.

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

9.43 Appropriation for Housing and Education Purposes

9.44 The Council will be seeking to appropriate the land hatched red back for housing purposes and be held within the Housing Revenue Account ("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.

9.45 The remaining part of the Site hatched blue on the plan at Appendix 1 will remain within education, and will be appropriated from planning purposes after practical completion of the development back for education purposes. This land hatched blue will form part of a reconfiguring of the boundary with the Brook Special School and Willow Primary School (to the west of the Site) and as set out in the Department of Education consent dated 4th November 2019, as varied by the consent dated 9 December 2021 from the Department for Education, a copy at Appendix 2.

9.5 **Equality**

- 9.51 The Council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to: A. Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act B. Advance equality of opportunity between people who share protected characteristics and people who do not C. Foster good relations between people who share those characteristics and people who do not
- 9.52 The three parts of the duty apply 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.
- 9.53 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.
- 9.54 The decision in this report seeks approval to award a building contract to construct 40 social rented homes and 1 commercial unit (convenience store) on the Site as the first phase of the Broadwater Farm new homes Improvement Programme.
- 9.55 This is likely to have a positive impact on residents with the right to return and other BWF residents with priority under the council's rehousing policy for estate regeneration. This will also benefit individuals in temporary accommodation as well as those who are vulnerable to homelessness. Data held by the council suggests that women, young people, BAME people and those from a lower socioeconomic background 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 have an increased vulnerability to homelessness, as detailed in the Equalities Impact Assessment of the council's Homelessness Strategy. As such, it is reasonable to anticipate a positive impact on residents with these protected characteristics. It should be noted that there are expected to be no negative equalities impact resulting from this decision.
- 9.56 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

10. Use of Appendices

Appendix 1 – A plan of the Former Moselle School Site ("the Site")

Appendix 2 – The Department of Education consent dated 4th November 2019 as varied by the consent dated 9 December 2021 from the Department for Education.

Appendix A Tender evaluation report (EXEMPT)

Appendix B Tender recommendation report (EXEMPT)

11. Background papers

11.1 Cabinet Report 14 September 2021. OPTIONS FOR THE FUTURE OF STAPLEFORD NORTH WING, BROADWATER FARM ESTATE.

11.2 Cabinet Report 7 December 2021. BROADWATER FARM ESTATE, DESIGNS FOR NEW HOMES AND IMPROVEMENTS, LANDLORD OFFER, BALLOT AND BALLOT PROGRAMME, RELOCATION OF EXISTING FACILITIES.