Report for:	**Cabinet 15 October 2024**
Title:	**Land adjacent Wat Tyler House, Boyton Road N8 7AU- Approval of new construction contract.**
Report Authorised by:	**Johnathan Kirby, Interim Director of Placemaking and Housing**
Lead Officer:	**Robbie Erbmann, Assistant Director for Housing**
Ward(s) affected:	**Hornsey**
Report for Key/ Non Key Decision:	**Key Decision**

1. Describe the issue under consideration

1.1. This report seeks Cabinet's approval to appoint the recommended contractor to complete a new build development of 15 new Council homes on Land adjacent Wat Tyler House, Boyton Road N8 7AU. The scheme comprises of six one-bedroom flats, one of which is fully adaptable, eight two-bedroom flats and one three-bedroom flat. The scheme will improve the existing public realm. Detailed planning permission was granted on 1st June 2023.

1.2 Cabinet is asked in light of the formal procurement exercise to approve the appropriation of the land edged red on the development plan at Appendix 1 from housing for planning purposes to facilitate the development process. This will 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.

Cabinet Member Introduction

The proposals for Wat Tyler House showcase our approach to placemaking which lies at the heart of Haringey's council housing delivery programme: we are aiming to deliver 15 new council rent homes, and make landscaping improvements to the public realm, to include an upgrade to two play areas for the local community to enjoy.

We are committed to building 3,000 new council homes by 2031 to help tackle the acute need for affordable housing in the borough, a demand that is being directly caused by the national housing crisis. Haringey is already making great strides towards this target, with work either completed or under way on over 2,000 homes across our borough.

The approved proposals for this site will make a significant contribution to the aims of our housing delivery programme. In addition, passive surveillance aims to design out crime on the estate by providing CCTV cameras and improved landscaping to encourage the local community to use the space to create a more inclusive environment for all, with significant investment in the play areas.

All homes will have high levels of insulation and incorporate green roofs, efficient heating systems and solar panels that will keep running costs low and avoid overheating. They will be constructed with responsibly sourced and environmentally friendly materials.

3. Recommendation

It is recommended that Cabinet:

3.1.1. Approves the appointment of Contractor A, identified in the exempt part of the report, to undertake the new build works to provide a total of fifteen new homes let at social rents at Wat Tyler House for a contract sum set out in the exempt part of the report; and approves sum set out in the exempt part of the report.

3.1.2. Approves the appropriation of Land adjacent to Wat Tyler House shown edged red on the plan titled 'Development Plan' attached at Appendix 1, from housing purposes to planning purposes pursuant to section 122 of the Local Government Act 1972 as it is no longer required for the purposes which it is currently held, and for the purposes of carrying the development as set out in part 6 of this report.

3.1.3. 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 and interests infringed upon by the Wat Tyler House development, under planning permission Ref: HGY/2022/3858.

3.1.4 Delegates to the Director of Placemaking & Housing, after consultation with the Director of Finance and the Cabinet Member for Placemaking and Housing, authority to make payments of compensation as a result of genuine claims of third-party rights affected by the Wat Tyler House development and payable as a result of the recommendation 3.1.3, within the existing scheme of delegation.

3.1.5 Approves the appropriation of Land adjacent Wat Tyler House site shown 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.

3.1.6 Approves the total scheme cost set out in the exempt part of the report.

3.1.7 Approves 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.

3.1.8 Considers the engagement and consultation carried out on this proposed scheme set out at clauses 6.7 to 6.10 of this report.

4. Reasons for decisions

4.1 The site known as Car park adjacent Wat Tyler Houe was approved by Cabinet in July 2019 to be included in the Council's Housing Delivery programme. The scheme was granted planning consent on 1st June 2023 and is ready to progress to construction. This report therefore marks the third, and final, Members' decision to develop on this site.

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

4.3 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 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 third party rights that may be infringed by the development 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 15 new Council homes.

4.4 The proposed development site shown edged red on the plan comprises of the existing car park adjacent Wat Tyler House with frontage onto Boyton Road. The site proposal will provide 15 much needed Council homes in a 4, 5 and 7 -storey building. In conjunction with the housing development a number of landscape and amenity improvements are proposed including play facilities, additional trees, additional planting, seating areas, bike hangers and additional CCTV in the immediate neighbourhood layout' plan at Appendix 1. The proposals alleviate potential anti-social behaviour attracted to the site by an open, car park, improving a prominent estate boundary on Boyton Road.

4.5 These 15 homes will also contribute to the Council's commitment to start 500 homes on site as part of the GLA 21-26 Affordable Homes Programme and the Council's political aspiration to build 3000 Council homes by 2031.

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

5.2 This opportunity was procured via a restrictive, competitive tender to the open market via Haringey Procurement and Contract System (Find a tender) using the JCT Design Build Contract 2016 with amendments, the route recommended by Strategic Procurement for a contract of this value.

5.3 The 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 because of the quality and price safeguarding a competitive tender provides.

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. 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.

5.5 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 under secure tenancies, thereby not supporting the delivery of much needed affordable homes.

6. Background information

Wat Tyler House development site

6.1. As shown in the red line boundary plan (Appendix 1), the site is located within Hornsey ward and is a council car park with 24 spaces adjacent Wat Tyler House on Boyton Road. It is within the Campsbourne Estate which lies to the east of Boyton Road. Boyton Road runs in approximately a north-south direction. The northern end of Boyton Road terminates at Newland Road which runs along the southern edge of Alexandra

Palace.

6.2 The car park accommodates 24 spaces, accessed off Boyton Road and managed by the Council's Asset's Team. A pedestrian pathway runs along the eastern boundary of the car park connecting through from the northern section of Campsbourne Road and Boyton Close. Continuing south another alley to connects to Boyton Close with the southern part of Campsbourne Road.

6.3 The permeability through Campsbourne Estate, limited natural surveillance and the ambiguous nature of the open amenity spaces including alleyways, communal gardens and play areas can make the area feel unwelcoming and have contributed to a history of anti-social behaviour and crime locally.

6.4 This land is owned by the Council and held in the Housing Revenue Account.

6.5 In July 2019, Cabinet approved the inclusion of Wat Tyler House into the Council' Housing Delivery programme to determine its feasibility and capacity for the delivery of new homes and then, if appropriate, its progression through to planning consent.

6.6 Designs have been developed that will deliver a total of 15 properties consisting of six one-bedroom flats of which one that is fully adaptable, eight two-bedroom flats and one three-bedroom flat, all for Council rent and detailed planning permission was granted on 1st June 2023.

6.7 The Scheme was delayed as a consequence of some redesign work required to meet the obligations of the Building Safety Act and the Tender period was elongated in order to ensure that the Council and its advisors could be assured that best value was being obtained from the Bidders.

Engagement and Consultation

Section 105 Consultation

6.8 Prior to the community engagement process, a separate statutory Section 105 consultation exercise was undertaken with secure tenants and leaseholders on the Campsbourne Estate in relation to the removal of the car parking area and the estate improvements associated with the development. The consultation ran from 2nd November 2020 until 13th December 2020. Two online engagement events took place on 18 November 2020 at 6pm and 26 November 2020 at 1pm. The council consulted 187 households this comprised of 145 secure tenants as required by law, and 42 leaseholders as a matter of good practice.

6.9 The outcome of the section 105 consultation (see Appendix 5) key issues was raised: parking already a problem in the area, The loss of parking capacity and extra congestion in the surrounding area likely to be caused by a reduction in the parking bays.

6.10 The outcome of the consultation was reported to New Homes Board and changes made to the scheme, where possible, to accommodate the public comments. The development follows Council Policy to ensure that all new Schemes are car free, with the exception of Blue Badge spaces, and we were therefore unable to accommodate replacement car parking. The evidence submitted with the Planning Application identified low use of the parking area and this was taken into account during the decision-making process for the Planning Application.

Community Engagement

6.11 Housing Engagement Team undertook community engagement events in relation to

the emerging proposals between 30th November 2020 and 11th January 2021. Given COVID-19 restrictions this included two on-line engagement events. These scheme proposals were presented to the public virtually via Microsoft Teams and the Council's chosen virtual consultation platform, commonplace.

6.12 The consultation information was placed on the Council's website via Commonplace. A total number of 30 responses were recorded (10 Secure Tenants/20 Leaseholders).

6.13 The drop-in event was held on 8th October 2022 from 11am-2pm on Campsbourne Estate was and advertised with a letter being sent to addresses. Further information was placed on the Council webpages including updated presentation boards (see Appendix 3 for a copy of the letter and Appendix 4 for a copy of the boards).

Planning consultation

6.14 The planning application for this scheme was submitted on 21st October 2022 and local residents were again formally consulted as part of the planning process. The consented Scheme provides for 15 new social rented homes with 1 x wheelchair adaptable homes in accordance with Planning Policy. The proposed Block is 7 storeys in height and will therefore need to follow the requirements of the Building Safety Act which has been factored in to both the Employer's Requirements for the Site and the subsequent Tender evaluation and moderation process. The development of social housing will lead to an improvement in the environment, social or environmental wellbeing on the wider Estate enabling a Secured by design approach to eradicate some areas of existing anti-social behaviour and to create visibility and activity to deter ASB hotspots on this part of the Estate. The environmental benefits of the new Block, which will meet the Council's exacting sustainability targets, will contribute to a significantly improved environment for surrounding buildings and Tenants.

6.15 There is no evidence to indicate that any third-party rights would be infringed by land adjacent to Wat Tyler House development. Resolution to grant approval was received on the 6th of March 2023 Planning Committee meeting and the Decision Notice was received on 1st June 2023. Concerns were raised about the size, massing and the potential impact on obstructing views light, overshadowing and overlooking of neighbourhood properties. Following a daylight/sunlight assessment, it was concluded that there was an acceptable impact on the daylight and sunlight amenity of the neighbourhood properties.

The Build Contract

6.16 The report is seeking approval for the award of the construction contract to enable the new build works to commerce.

6.17 The housing scheme at Car Park adjacent Wat Tyler House has been designed up to stage 3 of the Royal Institute of British Architects (RIBA) Plan of Works 2020. Following planning approval being granted, a contractor is needed to develop the technical design and complete the new build works. It is currently anticipated the contract period will be 18 months as per Contractor A's proposed programme, submitted as part of their tender.

6.18 The project tender process involved first publishing the PAS91Selection Questionnaire to the Open market via Find a Tender. This exercise constitutes a 'restricted tender process'. Following this, all the suppliers who submitted a compliant response were invited to proceed to the next stage, Invitation to Tender.

6.19 In total nine (9) suppliers registered were initially invited to tender. Five contractors submitted Expressions of Interest and subsequently three opted in to full tender stage and three submissions were received by the tender deadline date on 22 April 2024.

6.20 Tender submissions were checked for compliance and completeness by the Strategic Procurement Team on 25 April 2024. All were found to be compliant and complete.

6.21 The tenders were evaluated for Quality and Price as set out in the ITT document.

6.22 Following the evaluation process, the total overall Quality and Price scores were combined to provide the ranking of the bidders in accordance with the Most Economically Advantageous Tender (MEAT) and as outlined in the tender documents.

6.23 The information summarise the overall tender scores achieved by each Bidder in line with the tender evaluation criteria of 40% Price and 50% Quality and 10% social value as set out in the Invitation to Tender document. Full tender sum analysis based on the cost consultants estimate has been provided in Appendix 2, which is exempt due to the commercially sensitive nature of this information.

6.24 Costs were evaluated independently by the Project Team's Cost Consultant to ensure value for money in line with current market trends.

6.25 The project team's Cost Consultant was assigned to independently evaluate the cost ensure value for money in line with current market trends. A number of requests for clarification were issued with the responses analysed to established robust costing for the Council. The Cost Consultant report has been provided in Appendix 3

6.26 The contract is to be awarded on a fixed price basis. It includes new build works, the works, site mobilisation, site enabling works, management costs and includes overheads and profits and there is a defects and liability period of 12 months

Contribution of Strategic Outcome

6.27 The recommendations in this report will support the outcomes of the Corporate Delivery Plan 2022-2024, Theme 5 'Homes for the Future', which sets out to increase the number and variety of high-quality and sustainable homes in the borough.

Carbon and Climate Change

6.28 The development exceeds the targets set by the London Plan achieves 11.7% CO2 reduction through energy efficiency measures, 'Be Lean' stage using SAP10.2. Savings achieved through renewable technologies as part of the 'Be Green' stage yield a further CO2 reduction 72.3%. The technologies proposed are Air Source Heat Pumps and Photo Voltaic panels.

7 Legal

Consultation

7.1 The Council has carried out a consultation pursuant to S105 of the Housing Act 1985. That section requires the Council to consult with secure tenants on matters of housing management.

7.2 A consultation will not be lawful unless it is (1) undertaken at a time when proposals are still at a formative stage; (2) sufficient reasons are given for any proposal to enable people who are interested in the same to consider the proposals and make representations; (3) adequate time has been given for such consideration and response; and (4) all representations have been conscientiously taken into account when finalising the proposals.

7.3 Prior to making any decision required in this report, members must consider the representations made as a result of the consultations.

Appropriation for Planning Purposes

7.4. The Council holds the site 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 purpose. under Section 122 of the Local

Government Act 1972 but in order to engage Section 203 HPA 2016 the land must be held for planning purposes. Section 122 LGA 1972 allows all the Council to appropriate for any purpose for which the council is authorised by statue 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.

7.5 The requirements of Section 122 LGA 1972 in respect of this report 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.

d) The site does not contain open space.

Section 203 of the Housing and Planning Act 2016

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

7.7 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.

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

Appropriation for Housing Purposes

7.9 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.

7.10 The report outlined a compliant two-stage competitive process undertaken to select the Contractor and this in line with the Council's Contract Standing Orders (CSO) as well as the Public Contracts Regulations 2015.

7.11 The Council's CSO 9.07.01(d) permits Cabinet to award contracts valued at £500,000 and above so the recommendation in paragraph 3.1.1 of this report is in line with the provisions of the Council's CSO.

7.12 The recommendation in paragraph 3.1.4 to delegate authority to Director of Placemaking & Housing, after consultation with the Director of Finance and the Cabinet Member for Placemaking and Housing to make payments of compensation as a result of genuine claims of third-party rights affected by the Wat Tyler House development and payable as a result of the recommendation 3.1.3, within the existing scheme of delegation is line with the Council's Constitution.

7.13 The recommendation in paragraph 3.1.7 is permitted under the Council's CSO 9.07.3 which allows the issuance of a Letter of Intent pending the issuance and execution of a formal contract where works, goods or services under a contract is required to commence prior to the issuance and execution of a formal contract.

7.14 The Head of Legal and Governance (Monitoring Officer) sees no legal reasons preventing the Cabinet from approving the recommendation in this report.

8 Procurement

Strategic Procurement (SP) note that this report relates to the approval to award a contract to Alexander James Contracts Ltd to undertake the new build works to provide a total of Fifteen new Council homes at Car Park adjacent Wat Tyler House.

SP note that a competitive tender was launched via the HPCS using two-stage restricted procedure.

The Tenderers' bid submissions were evaluated in accordance with the scoring methodology contained within the published Invitation to tender document.

Bid evaluation was based on price and quality and the preferred bidder's submission demonstrates value for money.

SP support the recommendation to approve the award in accordance with CSO. 9.07.1 (d)

9. Finance

The scheme will deliver fifteen council homes at a total cost outlined in the Exempt report.

The scheme is included in the Council's Housing Delivery Programme and the cost to completion can be contained within the HRA.

Further finance comments are contained in the Exempt report.

10. Equality

10.1 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.

10.2 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.

10.3 Although it is not enforced in legislation as a protected characteristic, Haringey Council

treats socioeconomic status as a local protected characteristic

10.4 The proposed decision relates to new build works to provide 15 new Council homes at Land at Adjacent Wat Tyler House N8. The decision will increase the supply of Council homes. This will have a positive impact on individuals on the housing register, especially families in need of 2 and 3-bed homes, which includes people in severe housing need and people currently living in temporary accommodation. Data held by the council suggests that women, young people, and BAME communities are over-represented among those living in temporary accommodation. As such, it is reasonable to anticipate a positive impact on residents with these protected characteristics.

10.5 With regard to the land appropriation, it is noted that no third-party breaches are foreseen. With regards to the contract appointment, 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.

11. Use of appendices

Appendix 1– Red line boundaries, CGI Floor Plans-Wat Tyler House.

Appendix 2- Exempt financial report

Appendix 3- Exempt -tender cost report

Appendix 4- Community Engagement

Appendix 5- s105 Consultation

12. Local Government (Access to Information) Act 1985

12.1 Appendix 2 is NOT FOR PUBLICATION by virtue of paragraph 3 of Part 1 of Schedule 12A of. Given COVID -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).