

**Report for:** Cabinet Meeting – 22 April 2025

**Item number:** 16

**Title:** Grasmere Court, N22 – Approval of housing construction contract and land appropriation

**Report authorised by:** Taryn Eves, Director of Finance

**Lead Officer:** Shereen Gordon-Tennant, Housing Delivery Project Manager

**Ward(s) affected:** Woodside

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

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

- 1.1 Cabinet is asked to approve the appointment of the recommended contractor to complete a new build development of three new Council homes comprising of 1x 3 bed 3-person bespoke home and 2x 3-bed 5 person homes on Council land at Grasmere Court N22 8QR. All three new council homes will be let at Social Rent. The location of the proposed new homes is shown hatched red at Appendix 1.
- 1.2 Cabinet is asked 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 which will 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.

## **2. Cabinet Member Introduction**

Haringey is a borough with diverse needs when it comes to housing. We are committed to making the borough a place where everyone can thrive, no matter how complex their needs. Around a third of residents in the greatest need on our housing waiting list have a disability, or a family member with a disability, currently living in homes that are overcrowded or do not meet their medical requirements. Our bespoke housing programme is an important part of our needs-led approach to solving the housing crisis.

The proposal for Grasmere Court will deliver three new large council rent homes that have been designed to meet the needs of the families who will live in them. This is a particularly special scheme as we have been able to design a home to suit a family with very specific challenges for which there is no suitable property in the Housing portfolio and the impact on the family is immeasurable. This scheme will enable a family to move out of overcrowded accommodation and live together in a home that suits and enable a new level of independence that would have otherwise been impossible.

The council has 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. All homes will have high levels of insulation, 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. Recommendations**

It is recommended that Cabinet:

- 3.1.1 Pursuant to the Council's Contract Standing Order (CSO) 9.07.1(d), it is recommended 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 three homes at Council rent for the total contract sum set out in the exempt part of the report; and approves the client contingency sum set out in the exempt part of the report.
- 3.1.2 To approve the appropriation of the Grasmere Court 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.
- 3.1.3 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 Grasmere Court estate development, under planning permission Ref: HGY/2024/2098.
- 3.1.4 To delegate to the Assistant Director for Capital Projects and Property, after consultation with the Cabinet Member for Housing and Planning to make payments of compensation as a result of genuine claims of third-

party rights affected by the Grasmere Court development and payable as a result of recommendation 3.1.3, within the existing scheme of delegation.

- 3.1.5 To approve the appropriation of the Grasmere Court 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.
- 3.1.6 To approve the total scheme cost set out in the exempt part of the report.
- 3.1.7 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.
- 3.1.8 To consider the engagement and consultation carried out on this proposed scheme as set out at clauses 6.1 to 6.17 of this report.

#### **4. Reasons for decision**

- 4.1. The site known as Grasmere Court was approved by Cabinet in July 2019 to be included in the Council's Housing Delivery Programme. Resolution to grant was received first on the 16<sup>th</sup> December 2021 and again on 2<sup>nd</sup> October 2024 in relation to the updated design. This report therefore marks the third and final Cabinet decision to develop 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 upon by the development: Resolution to grant was received on the 16<sup>th</sup> December 2021 and again on 2<sup>nd</sup> October 2024 in relation to the updated design , and no applicable concerns about the loss of rights were raised during extensive local engagement and consultation, including a Section 105 consultation in February to March 2021 with residents. However, appropriation of the Grasmere Court development site for planning purposes is recommended as a precaution. It will allow the Council to use the powers contained in Section 203 of the Housing and Planning Act 2016 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 three new Council homes.

- 4.4. The site proposal will provide three much needed family sized homes.
- 4.5. These three homes will also contribute to our commitment to start 500 homes on site as part of the GLA 21-26 Affordable Homes Programme

## **5. Alternative options considered**

- 5.1. The council could choose not to appoint a contractor to complete the development of this site, however this option was rejected because it would not support the Council's commitment to deliver a new generation of Council homes, in particular family-sized homes.
- 5.2. This opportunity was procured via a competitive tender using the London Construction Programme (LCP) and the Construction Dynamic Purchasing System using the JCT Design & Build Contract 2016 with amendments, the route recommended by the Strategic Procurement team. The alternative would be to procure a contractor via a restricted, competitive tender to the open market, or the Westworks Procurement Ltd Development.
- 5.3. 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.
- 5.4. 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.

## **6. Background information**

### **Grasmere Court development site**

- 6.1. Shown in the red line Development Plan (Appendix 1), the site is located at the rear of the existing Grasmere Court Estate. The site is located primarily within a residential area within the Bounds Green Ward. The main entrance is located off Palmerston Road, via Grasmere Court, to a small garage court (six) along with nine parking bays. The area is overlooked by properties on Palmerston Road and to the rear of the site is The New River which adds character to the area and is currently an underrated amenity.
- 6.2. The land is owned by the Council and held within the HRA.
- 6.3. In July 2019, Cabinet approved inclusion of the scheme into the Council's Housing Delivery Programme to determine its feasibility and capacity for the delivery of new homes on the basis that, if appropriate, progression through to planning consent.
- 6.4. Designs were developed to deliver 1x 3 bed 3-person bespoke home and 2x 3-bed 5 person homes, designed and future -proofed to suit needs of specific resident.
- 6.5. At the resident engagement events was held on 12<sup>th</sup> February and 24<sup>th</sup> February 2021 the key issues raised were; financial impact on leaseholders, limited parking in the surrounding roads and impact of construction on health.
- 6.6. The scheme was submitted to planning on 4<sup>th</sup> October 2021 and residents were once again consulted as a part of this process. Planning approval of the scheme was granted on 16<sup>th</sup> December 2021.
- 6.7. The scheme was paused in January 2023 due to high build costs making the scheme unviable.
- 6.8. In January 2024, the scheme was looked at again for reasons detailed in the exempt part of this report.
- 6.9. In February 2024 the scheme was redesigned and now consists of three family sized flats which includes a fully bespoke property on the ground floor. Further details on this can be found in the Exempt part of this report.
- 6.10. In July 2024 the scheme was resubmitted to Planning and Planning approval was granted in October 2024.

#### **Engagement and Consultation**

- 6.11. Obligations to consult in line with Section 105 of the Housing Act 1985 were applicable for the Grasmere Court site. The Section 105 consultation period

commenced on 1<sup>st</sup> February 2021 and ran until 1st March 2021. The council consulted 24 households. In addition to consulting with secure tenants as required by law.

- 6.12. Two engagement sessions for consultees and the wider community were held online due to the Covid-19 pandemic on 12<sup>th</sup> February at 1pm and 24<sup>th</sup> February at 6pm, with a recording available online for those unable to attend.
- 6.13. The Section 105 consultation received 8 responses from the 24 households consulted: 2 from secure tenants and 6 from leaseholders.
- 6.14. The outcome of the Section 105 consultation (see appendix 3 attached) were overall neutral with requests to mitigate the objections to overcrowding parking, parking requirements for emergency services and impact on health due to construction

### **Community Engagement**

- 6.15. The Council's community engagement period commenced on 14<sup>th</sup> June 2021 and ran until 4th July 2021. The Council invited comment on the development proposals from local households via a consultation pack postal drop. It should be noted that local residents outside of the letter drop area were also able to comment via the Commonplace website.
- 6.16. The community engagement period received 11 responses.
- 6.17. The outcome of the engagement (see appendix 3) was neutral, with the project team acknowledging comments regarding accessibility, parking and environmental impact of build.

### **Planning consultation**

- 6.18. The planning application for the scheme was re-submitted on 20<sup>th</sup> July 2024 and residents were again formally consulted as part of the planning process.
- 6.19. There is no evidence to indicate that any third-party rights would be infringed by the Grasmere Court development. The Decision Notice was received on 2<sup>nd</sup> October 2024.

### **The Build contract**

- 6.20. This report is seeking approval for the award of the construction contract to enable the building works to commence.
- 6.21. The housing scheme at Grasmere Court has been designed up to stage 3 of the Royal Institute of British Architects (RIBA) Plan of Works 2019. Following

planning approval being granted, a contractor is needed to develop the technical design and complete the new build works. It is currently anticipated that the contract period will be 16 months as per Contractor A's proposed programme, submitted as part of their tender.

- 6.22. In total 9 suppliers opted into the tender opportunity and 5 suppliers responded.
- 6.23. Bidders were asked to respond to a 60% quality assessment, 40% price as set out in the ITT (Invitation to Tender) document. Details of all works costs received from bidders has been provided in Appendix 3.
- 6.24. The quality assessment was conducted by Haringey's project team, with the moderation led by the by the Council's Procurement Team to ensure a high level of quality across both the submissions and scoring. The quality assessment was agreed via a pre-agreed list of questions that were included as part of the delivery proposals in the tender. Each question was scored between 0 (question not answered) and 5 (excellent) and then weighted as set out in the tender.
- 6.25. The project team's Cost Consultant was assigned to independently evaluate the cost to ensure value for money in line with market trends. A number of requests for clarification were issued with the responses analysed to establish robust costing for the Council. The Cost Consultant report has been provided in Appendix 4.
- 6.26. Contractor A's contract sum is in the exempt part of the report. Considering the size, scope, complexity, and abnormalities specific to this project, the project Cost Consultant has concluded that the tender submitted by the recommended contractor has provided a high level of understanding of the scheme and offers reasonable value for money in the current market. The detailed outcome of the quality and cost tender scoring has been provided in Appendix 3.
- 6.27. The recommendations is therefore to award the contract to Contractor A, as set out in the exempt part of the report, Appendix 2.
- 6.28. The contract is to be awarded on a fixed price basis. It is to include new build works, landscaping works, overheads and profits and there is a defects and liability period of 24 months.
- 6.29. The tender assumes signing of the contract and site possession by June 2025 with completion expected in September 2026

### **Appropriation of land**

- 6.30. The Grasmere Court development site edged red on the plan titled 'Development Plan' attached at Appendix 1, is currently held for housing purposes. To carry out the proposed Grasmere Court development, the land edged red on the plan titled 'Development Plan' at Appendix 1 must be appropriated for planning purposes pursuant to Section 122 of the Local Government Act 1972 and Section 19 of the Housing Act 1985 in order to have the benefit of S203 Housing and Planning Act 2016. The Council can appropriate the land because there is no house or part of a house on the development site. The land is also no longer required to be used for estate parking.
- 6.31. The appropriation of the land and the subsequent development will enable the Council to secure the plot boundary and will enable the Council to improve the landscaping and security at the rear of the estate. The appropriation of the land and the subsequent development will enable the Council to develop much needed housing in the London Borough of Haringey. This is likely to contribute towards the economic, social and environmental wellbeing of the area.
- 6.32. Appropriating the site for planning purposes allows the Council to use its powers under Section 203 of the Housing and Planning Act 2016 ("HPA 2016") to override easements and other third-party rights and interests infringed upon by the Grasmere Court development. This may include a right to light or right of way or interest in land which entitles a neighbouring landowner to enjoy such rights over the development site. Unless the site is appropriated as recommended, interference with any such right may entitle the owner of that right to seek an injunction preventing the development from going ahead. The Council will pay compensation where a legal basis for such payments is established, in substitution for their right to seek damages for the interference.
- 6.33. It is not believed that the potential infringement of any third-party rights is a breach of human rights, being rights to private and family life. S203 will prevent an injunction being sought by a third party for breach of a right, the right will instead be converted into a right of compensation under section 204 of the HPA 2016.
- 6.34. Following the public consultation events, there has not been any evidence presented of potential claims that any third-party rights would be infringed by the proposed development.
- 6.35. Regarding the value of potential compensation for the loss of third-party rights of access and or enjoyment, having undertaken the necessary checks against neighbouring properties, none have easements or third-party claims or rights



in relation to the site. Furthermore, no neighbouring properties have come forward asserting any breach of easements or third-party rights or interests. Based on these circumstances, it is unlikely that there will be any claims, but the level of compensation is unquantifiable until such a claim is made. The risk of paying compensation is low and therefore it is not likely to be so significant as to impact on the scheme's viability.

## **7. Contribution to the Corporate Delivery Plan 2024-2026 High level Strategic outcomes?**

- 7.1. The recommendations in this report will support the outcomes of the Corporate Delivery Plan, in particular "Homes for the Future".
- 7.2. In particular, the recommendations in this report deliver on delivering "high quality, sustainable homes".

## **8. Carbon and Climate Change**

- 8.1. Haringey is committed to ensuring that its new homes will be environmentally sustainable in line with the Haringey Local Plan in mind, especially regarding low carbon developments whilst fitting into an existing development and respecting the scale, layout and the privacy of both the new and existing properties.
- 8.2. As outlined in Planning approval the scheme will retain and ensure the safety of trees adjacent to the site through use of secure, stout, exclusion fencing erected at the minimum distance in accordance with BS3998:2010 for the duration of the works.

## **9. Statutory Officers comments**

### **9.1. Finance**

9.1.1. The cost to complete this scheme is provided for in the HRA capital programme budget and included in the medium-term financial strategy.

9.1.2. The cost can be contained within the HRA.

9.1.3. Further finance comments are provided in the attached Exempt Report.

### **9.2. Procurement**

- 9.2.1. Strategic Procurement (SP) note that this report relates to the approval to award a contract to Contractor A to complete a new build development of three new Council homes comprising of 1x 3 bed 3-person bespoke home and 2x 3-bed 5 person homes on Council land at Grasmere Court N22 8QR.
- 9.2.2. This procurement was tendered competitively via Axians Dynamic Purchasing System (DPS) under General Construction Multi Trade.
- 9.2.3. This procurement is in line with Contract Standing Order (CSO) 9.04.1(b), and Regulation 34 of the Public Contracts Regulations 2015 (as was in force at the time this procurement was undertaken).
- 9.2.4. Tender Responses were evaluated in accordance with the scoring criteria and methodology as detailed in the published Instructions to Tender document.
- 9.2.5. The preferred bidder's bid submission demonstrates Value for Money.
- 9.2.6. The Council and the preferred supplier will contract under JCT Design and Build Contract 2016 for the delivery of works.
- 9.2.7. Strategic Procurement support the recommendation to approve the award in accordance with CSO. 9.07.1 (d).

### **9.3. Legal**

- 9.3.1. The Assistant Director for Legal and Governance (Monitoring Officer) was consulted in the preparation of this report.
- 9.3.2. The report indicates and Strategic Procurement has confirmed that the contract in the report was procured via Axians Dynamic Purchasing System (DPS) under General Construction Multi Trade this is in line with Regulation 34 of the Public Contracts Regulations 2015 (as was in force at the time this procurement was undertaken) as well as the Council's Contract Standing Order (CSO) 9.04.1(b).
- 9.3.3. Pursuant to the Council's Contract Standing Order (CSO) 9.07.1(d) Cabinet has power to approve the award of a contract where the value of the contract is £500,000 or more and as such the recommendation in paragraph 3.1.1 of the report is in line with the Council's CSO.
- 9.3.4. The recommendation in paragraph 3.1.7 of the report 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.

9.3.5. The land to be appropriated for planning purposes is currently held by the Council as housing land. The appropriation of housing land must comply with Section 19 of the Housing Act 1985. This stipulates that unless the land does not contain a house or part of a house, the consent of the Secretary of State must be sought. The land edged red on the Development Plan at Appendix 1 does not contain a house or part of a house, therefore the land may be appropriated for planning purposes without the consent of the Secretary of State. Section 122 of the Local Government Act 1972 permits the appropriation of land by the Council if it is no longer required for the purpose, it is currently held.

9.3.6. By appropriating the Development Site for planning purposes, the Council can override easements and other rights in land. This is permitted by Section 203 of the Housing and Planning Act 2016 (HPA 2016), subject to payment of compensation under section 204 of the HPA 2016. The report notes that no potential claims for a loss of a private right have been identified, at this stage.

9.3.7. Section 19 of the Housing Act 1985 permits the appropriation of land owned by the Council for the provision of housing accommodation. Section 122 of the Local Government Act 1972 permits the appropriation of land by the Council if it is no longer required for the purpose, it is currently held. On completion of the development works, the land will be used for the provision of housing accommodation.

9.3.8. The Assistant Director for Legal and Governance (Monitoring Officer) sees no legal reasons preventing the approval of the recommendations in the report.

#### 9.4. **Equalities**

9.4.1. 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.

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 build completion works on the site known as Grasmere Court N22. 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.
- 9.4.4. It is further noted that one of the homes has been designed as a fully bespoke wheelchair adapted home. As such, it is reasonable to anticipate a positive impact on the occupying residents with the protected characteristic of disability.
- 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. 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: EXEMPT Report

Appendix 2: Development Plan

Appendix 3: Cost consultant tender report

Appendix 4: S105 report

## **11. Background papers**

Cabinet paper: 09/07/2019 Approval to add Grasmere Court to Council Housing Delivery Programme:

<https://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MID=9151>

