



## Notice of KEY Executive Decision

<b>Subject Heading:</b>	Briar Road Development
<b>Cabinet Member:</b>	Councillor Roger Ramsey –Leader of the Council
<b>CMT Lead:</b>	Neil Stubbings – Interim Director of Housing
<b>Report Author and contact details:</b>	Mark Howard, Programme Delivery Manager, Housing Services <a href="mailto:Mark.howard@havering.gov.uk">Mark.howard@havering.gov.uk</a> 01708 434704
<b>Policy context:</b>	This Executive Decision is required to authorise a Pre-Construction Services Agreement and Design and Build agreement in accordance with the Council's Contract Procedure Rules and public procurement regulations. The Council's new build development programme is consistent with the approach set out in the Council's Housing Strategy 2014/17.
<b>Financial summary:</b>	The scheme is fully funded from Right to Buy receipts, GLA grant and the HRA Capital Programme.
<b>Reason decision is Key</b>	<ul style="list-style-type: none"><li>• <b>Expenditure or saving (including anticipated income) of £500,000 or more</b></li></ul>
<b>Date notice given of intended decision:</b>	1 <sup>st</sup> June 2016

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<b>Relevant OSC:</b>	Towns and Communities
<b>Is it an urgent decision?</b>	No
<b>Is this decision exempt from being called-in?</b>	No

**The subject matter of this report deals with the following Council Objectives**

- Havering will be clean and its environment will be cared for [✓]
- People will be safe, in their homes and in the community [✓]
- Residents will be proud to live in Havering [✓]

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To approve the award of a pre-construction services agreement followed by a design and build contract for the Briar Road site development to Allenbuild Limited ('Allenbuild') via a direct award through the Places for People procurement framework

### AUTHORITY UNDER WHICH DECISION IS MADE

This decision is being made by a Cabinet Lead Member acting under the following authority delegated under in the Council's Constitution:

'Part 3: Responsibility for Functions

2 Executive functions

2.1 General Functions

(p) To award all contracts above a total contract value of £10,000,000.

The Leader of the Council will give notice in writing, duly signed and dated, to the proper Officer, as to the exercise of Executive functions and will submit a fresh notice on each occasion that those delegations are amended.

### STATEMENT OF THE REASONS FOR THE DECISION

These contracts relate to a housing new build scheme which was approved in principal by Cabinet on the 24<sup>th</sup> September 2014. Planning approval has been granted.

Pellings LLP were appointed to provide professional cost consultancy advice on the project.

This procurement is being carried out under the revised Contract Procedure Rules adopted by Cabinet on 13<sup>th</sup> July 2016. The procurement has therefore been put before the Council's Checkpoint panel and was viewed as being able to progress to contract award hence the submission of this report.

The scheme is for the design and build of a three-storey block comprising of 36 residential units and 2 commercial units (use classes A1/A2) plus a terrace of ten houses on Council-owned land at the Briar Road Estate, Village Square, Harold Hill, Romford. The scheme is intended for general needs Council housing and shared ownership homes. The total estimated build cost is £9,910,213 based upon the most

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recent build cost estimate dated 18<sup>th</sup> November 2016.

The appointment will be made under the Places for People Development Constructor Framework which was awarded by the Places for People Group in April 2016 ('the Framework').

The proposed development contract falls within the scope of Lot 14 of the Framework which covers all of Greater London and is for contracts with a value of £4,322,012-£10 million. The first-ranked supplier in that Lot is Allenbuild.

There are ten other suppliers in Lot 14. It is proposed though to make a direct award to Allenbuild rather than hold a mini-competition amongst all Lot 14 suppliers because speed is of the essence for this contract in order to meet deadline dates for GLA grant funding, and expenditure of Right to Buy receipts. If a direct award is made as permitted by the framework the contractor can be appointed and start work much quicker.

It is proposed to engage Allenbuild under a 'two-stage' process. This approach provides the benefit of early supplier engagement. Stage 1 will be to appoint Allenbuild under a standard JCT Pre-Construction Services Agreement. This will cover the following activities:

- 1) The demolition of the existing buildings
- 2) The enclosure of the site by hoarding
- 3) The necessary statutory services diversions
- 4) A developed design taken from the current planning stage drawings and worked up to a detailed design.
- 5) A detailed set of Contractors Proposals which are fully priced so as to give cost certainty.

The estimated cost of this pre-construction services stage is £1,330,000.

The second stage will be to conclude a JCT Design and Build contract with Allenbuild once the conditions of the PCSA have been fulfilled and the Council's professional advisors have satisfied themselves that the contractor's proposals meet the scheme's requirements and represent value for money. The cost of this design and build contract represents the balance of the total build cost remaining after the pre-construction matters have been settled. If matters cannot be agreed with Allenbuild then a new procurement process will have to be conducted to find an alternative contractor.

Value-for-money can be evidenced, even though it is a direct award. This is because:

- Allenbuild were the top-ranked bidder for Lot 14 under the Framework which was procured in a fully-advertised competitive process, as recently as April 2016.
- Their maximum rates are set out in the Framework agreement
- The early involvement of the contractor allows the joint management of risk, joint value engineering of design and Client involvement in procurement of the supply chain

Before using the Framework, Havering Council must enter a 'Membership Agreement' with the Places for People Group and pay a joining fee of £10.

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These works are part of the 2016/17, 2017/18 and 2018/19 HRA Capital Programme.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

To package this scheme with other new-build development projects – **Rejected** – on the grounds that other schemes are at different stages of development and would delay tendering. Expenditure on this scheme is time-critical as funding is being partially provided through retained Right to Buy receipts which are required to be returned, with interest charges, if not utilised.

To procure this work through open competition – **Rejected** – on the grounds that the project is above the threshold for Works under the Public Contracts Regulations 2015 and so would require a lengthy procurement process through the Official Journal of the European Union, which would not meet the tight funding programme for the project.

### **PRE-DECISION CONSULTATION**

Existing residents impacted by the works have been consulted concerning the proposed developments, and will be consulted further prior to and during the works.

Key Council stakeholders have been consulted on the development process in order to maximise good working relations, achieve effective compliance with the Councils standing orders and achieve value for money.

Members have been consulted on the overall Programme through the report to Cabinet.

### **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Mark Howard

Designation: Programme Delivery Manager

Signature:



Date: 18<sup>th</sup> January 2017

## **Part B - Assessment of implications and risks**

### **LEGAL IMPLICATIONS AND RISKS**

This report seeks approval for a pre-construction services agreement and a design and build construction/works for 46 affordable homes and 2 commercial units at Briar Road and Harold Hill. The contract value is in the region of £9,910,213, such value being above the EU's public procurement threshold for works. The scheme is fully funded from Right to Buy receipts, GLA grant and the HRA Capital Programme.

The Places for People framework is fully compliant with the Public Contracts Regulations 2015 and Havering Council is within the list of potential buyers identified in the OJEU Notice dated 8.12.15.

Under the Framework the Call-off contracts can be awarded through any contract type, at any time throughout the duration of the framework agreement. Call-off contracts can be via direct award to the first-ranked supplier or mini-competition between all appointed suppliers

There is also the requirement that the procurement complies with the Council's Contract Procedure Rules and Rule 25 Grant Funded Expenditure.

Here there appears to be a fully compliant procurement in line with the Council's Contract Procedure Rules thus satisfying requirements in respect of this procurement.

Due to the value, the JCT contracts along with any contractor warranties will need to be sealed. Such Contracts should be sent to Legal Services for review and sealing.

All necessary planning permissions have been obtained.

Jabeen Story  
Commercial Contracts and Procurement Solicitor  
Legal Services

## FINANCIAL IMPLICATIONS AND RISKS

### *Contract*

The Pre-Contract Services Agreement Contract shall be the JCT standard form which is an industry standard for contracts of this size and type. The proposed subsequent construction contract shall be the JCT Design and Build contract with the Council's standard amendments

### *Inflation*

There will be no uplift of the contracted rates for inflation

### *Financial Stability*

A financial check has been carried out on the proposed contractor and their rating is recorded by Experian as below that which is required for approval.

An Experian check has been carried out on Allenbuild's ultimate parent company and this is recorded as "very low risk".

A parent company guarantee will therefore be obtained and any financial risk will be mitigated through payment in arrears and close analysis of valuations.

### *Budget*

The total scheme cost for the project is expected to be £10,460,149 made up as follows:

Build cost tender*	£ 9,910,213
Development on-costs	£ 558,689
<b>Total anticipated scheme cost</b>	<b>£10,468,902</b>

\*The build cost indicated above will be split with £1,330,000 approximately spent under the pre-construction services agreement and the rest on the design and build contract.

This will be fully funded from RTB receipts of £2,457,916, GLA Grant of £160,000 and HRA of £7,850,986

The required budget is reflected by the One Oracle budget (Project A1898, Task 2.0)

Comie Campbell  
Strategic Finance Business Partner

## HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

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**EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The procurement process has been carried out in accordance with the Council's Contract Procurement Rules. The proposed contractor is expected to comply with the Council's policies with regards to the promotion of equality and diversity in service delivery to the community, in relations with colleagues and in employment practices.

Savinder Bhamra  
Corporate Diversity Adviser

**BACKGROUND PAPERS**

NONE



**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

*Delete as applicable*

Proposal NOT agreed because

**Details of decision maker**

Signed



Name: Councillor Roger Ramsey

Cabinet Portfolio held: Leader of the Council

CMT Member title:

Head of Service title:

Other manager title:

Date: 16/2/17

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Andrew Beesley, Committee Administration Manager, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on 16/2/17

Signed  \_\_\_\_\_

