

Notice of KEY Executive Decision

Subject Heading:	White Hart Lane Development
Cabinet Member:	Councillor Joshua Chapman, Lead Member for Housing.
SLT Lead:	Gerri Scott – Interim Director of Housing
Report Author and contact details:	Mark Howard, Programme Delivery Manager, Housing Services Mark.howard@havering.gov.uk 01708 434704
Policy context:	The Council's new build development programme is consistent with the approach set out in the Council's Housing Strategy 2014/17.
Financial summary:	The total contract value is £4,880,634.86 to be funded from GLA Grant and the HRA Capital Programme.
Reason decision is Key	Expenditure or saving (including anticipated income) in excess of £500,000
Date notice given of intended decision:	20 th June 2019
Relevant OSC:	Places
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

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

Key Executive Decision

Places making Havering
Opportunities making Havering
Connections making Havering

[M]
[M]
[M]

Key Executive Decision

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

1. To award to Marfleet and Blyth Limited a design and build contract for 23 housing units over two sites at White Hart Lane, Collier Row with a contract value of £4,880,634.86.

AUTHORITY UNDER WHICH DECISION IS MADE

1. 3.3 Powers of Members of the Senior Leadership Team
'Contract powers
2. To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract procedure Rule 16.3."

STATEMENT OF THE REASONS FOR THE DECISION

1. Background
 - 1.1 This contract relates to a housing new build scheme which was approved in principle by Cabinet on the 18th November 2015.
 - 1.2 In the original scheme, as the Cabinet decision of 18 November 2015, approval was for 25 houses and flats over 2 sites. To meet planning requirements regarding flooding and issues raised with regards to sight lines for residents, the scheme was reduced to twenty-three residential units. The scheme is intended for general needs Council housing. The total scheme cost is £5,333,814 based upon the most recent build cost estimate dated 7th December 2018.
 - 1.3 Planning approval has been granted for both sites. These works are part of the 2019/2020 and 2020/2021 HRA Capital Programme.
 - 1.4 This decision will enable the Council to:
 - a. Provide good quality affordable housing;
 - b. Achieve value for money;
 - c. Further enhance the quality of life for our residents in the Borough, and house a number of families and hence reduce the number of applicants on the waiting list.

Key Executive Decision

- 1.5 The scheme has been designed to meet fully the GLA London Housing Design Guide for:
- a) Mix and size of housing including the 10% requirement for mobility adapted properties (in this case 2 No.)
 - b) Dwelling special standards
 - c) Noise, sunlight and daylight requirements
 - d) Climate change.

- 1.6 All of which were incorporated in London Borough of Havering's Standard Employers Requirements in order to satisfy the GLA funding requirements

2. Tender process

- 2.1 Robinson Low Francis is appointed as Employer's Agent to provide professional cost consultancy advice on the project.
- 2.2 Tenders were sought via the Places for People Development Contractor Dynamic Purchasing System (DPS) which had been advertised on OJEU under reference 2017/S 086-167235. The deadline for receipt of tenders was 22nd February 2019.
- 2.3 Five companies responded to the invitation to tender and submitted bids.
- 2.4 The tenders were evaluated against the criteria of quality (maximum score 30%) and price (maximum score 70%). The pricing submissions were scrutinised by Robinson Low Francis and a member of the Housing Services team. The quality submissions were evaluated by two members of the Housing Services team and the scores moderated by a member of the Procurement team.
- 2.5 The price and quality evaluation scores are set out in an accompanying exempt appendix 1 to this report.
- 2.6 The recommendation is to award the contract to the successful tenderer, Marfleet and Blyth Limited.
- 2.7 Checkpoint 2 Procurement has been put before the Council's Checkpoint panel on 11/3/2019 and was viewed and approved with 'an Amber' status.
- 2.8 The Checkpoint panel queried provisional sums which were noted as part of the contract award recommendation.

Key Executive Decision

- 2.9 Provisional sums included in the contract relate to service installations for the sites (e.g. gas, water) which will be required at the developments. These are not currently possible to price with certainty due to lack of information and, following discontinuation of a previous tender for this project due to lack of contractor uptake caused by uncertainty of pricing, it was agreed that the Council's tender documents would include defined provisional sums relating to services diversions.
- 2.10 The defined provisional sums were valued by the then Interim quantity surveyor for the Council and agreed with the Employers Agents. They have therefore been quantified to the extent that it is possible at this stage of development.
- 2.11 Both provisional sums were clearly stated in the Contract Sum Analysis and formed part of the tenderers final tender sum.

3. Proposed contract

- 3.1 Under the DPS, call-off contracts can be awarded through any contract type, at any time throughout its duration. The proposed form of contract is the standard JCT Design and Build Contract (2016 Edition). This is an industry standard contract and it is considered should adequately protect the Council's interest.
- 3.2 All external design consultants and/or sub-contractors engaged by the contractor to produce designs or undertake design work will be contractually required to enter into a warranty in favour of the Council.
- 3.3 It is intended that the award of contract will be on or after the 10th June 2019 immediately after the standstill period, JCT Design and Build contract to be signed during the period of 22nd to 29th June and commencement on site 14th October subject to Planning discharge.

4. Project risk

- 4.1 In order to minimise risk the following has been put into place: -
- 4.1.1 An externally appointed Clerk of works will be appointed to monitor and manage the quality of the work to ensure the contractor and his sub-contractors meet the quality standards as detailed in the Employer's Requirements and all relevant British Standards for Workmanship.
- 4.1.2 The Clerk of Works will report to the Employer's Agent on all quality matters and will form part of the handover procedure
- 4.1.3 The Employer's Agent will manage on behalf of the Council the contract documentation, agree valuations, chair monthly site meetings and to manage the handover procedure.
- 4.1.4 The Councils Programme Project Manager's role will be to oversee the project, monitor the programme in conjunction with the Employer's Agent to ensure successful delivery of the project.

Key Executive Decision

5. Added social value

- 5.1 All bidders were asked:
- ‘Please explain your approach to encouraging local supplier chains and staff recruitment from within Havering in connection with this development. What opportunities (connected to this development) can you offer to improve the local economy and work and skills training in Havering?’
- 5.2 The winning bidder’s responses and proposals will be incorporated into their contract with the Council.
- 5.3 The Contractor will be required to record, monitor and demonstrate to the Council throughout the contract and report on what actions they have taken to meet those proposals.
- 5.4 The successful contractor will also be required to register the project with the Considerate Constructors scheme and will, amongst other things, give consideration to their impact on neighbours and the general public.

OTHER OPTIONS CONSIDERED AND REJECTED

- 1.0 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. It is a requirement of the GLA funding that work on site must start on 14 October 2019.
- 1.1 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.

Key Executive Decision

PRE-DECISION CONSULTATION

- 1.0 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.
- 1.1 Members have been consulted on the overall programme through the reports to Cabinet on the 18th November 2015
- 1.2 Proposals for procurement of a contractor for the development at White Hart Lane have been presented to the Checkpoint Board and recommendations arising from that meeting have been incorporated into the procurement process.

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

Name: Mark Howard

Designation: Programme Delivery Manager

Signature:



Date: 14th May 2019

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

- 1.0 The Cabinet decision of 18 November 2015 approved a proposal for 25 houses and flats over 2 sites at White Hart Lane and delegated authority to: “the Group Director for Children, Adults and Housing after consultation with the Cabinet Member for Housing to make variations to, or substitutions for any of the schemes covered in the relevant report, including virement between schemes deemed desirable following scheme review, resident consultation and/or identified as a planning requirement unless the variations would incur additional capital investment beyond the existing programme budget.”
- 1.1 The current proposal for 23 houses due to meeting planning requirements regarding flooding represents a reduction to the scheme which is within the Group Director’s delegated authority. The reduction will be permitted under the delegation provided the necessary consultation with the Cabinet Member for Housing has been carried out.
- 1.2 The Council is a contracting Authority for the purposes of the Public Contract Regulations 2015. The estimated value of the framework exceeds the EU threshold for Works of £4,551,413. A Public Contracts Regulations 2015 (PCR 2015) compliant procurement is therefore required.
- 1.3 As a local authority, the Council is named on the DPS OJEU notice and is entitled to call off from the DPS.
- 1.4 The proposed call-off contract will be compliant with the PCR 2015 as long as the DPS rules for calling off have been complied with.
- 1.5 Following award of the contract, a contract award notice should be published and a voluntary stand-still period observed prior to entering into the contract.
- 1.6 The JCT Design and Build 2016 contract incorporates public sector provisions. Including provisions relating to fair payment, the Data Protection Act 2018 and the Freedom of Information Act 2000. These options should be utilised.
- 1.7 The contractual requirement that the contractor provide sub-contractor warranties, together with a parent company guarantee mitigates risk in relation to main contractor insolvency. The warranties should be obtained via the main contractor soon after the commencement of the contract rather than upon completion of the build. A parent company guarantee is only as good as the financial standing of the parent company. A financial assessment the parent company has been carried out.
- 1.8 The Council is required to achieve Best Value in awarding contracts. The call-off from the DPS has followed a competitive process. The Council should be satisfied that the contract award represents best value.

Key Executive Decision

- 1.9 The scheme is partially funded from the GLA and the HRA Capital Programme. The scheme has been designed in accordance with the GLA grant design requirements. Any further requirements of either funding body should be complied with in order that the grant funding continues to be secured.
- 1.10 The method of procurement complies with the Council's Contracts Procedure Rules. As the contract is worth over £100,000 the JCT contracts along with any contractor warranties should be sealed. Such Contracts should be sent to Legal Services for review and sealing.

FINANCIAL IMPLICATIONS AND RISKS

1.0 Inflation

1.1 There will be no uplift of the contracted rates for inflation.

2.0 Financial Stability

2.1 As required by the Councils Contract Procurement Rules a financial check has been carried out on the proposed contractor.

2.1.1 Marfleet and Blyth are owned by Push Energy Ltd who in turn is owned by Gladwins Farm Holdings Ltd.

2.1.2 Marfleet and Blyth: - their rating is recorded by Experian as very low risk.

2.1.3 Push Energy Ltd:- their rating is recorded by Experian as below average risk

2.1.4 Gladwins Farm Holdings Ltd: - their rating is recorded by Experian as low risk

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

3.0 Cost

3.1 The total scheme cost for the project is expected to be £5,333,814 made up as follows:

Build cost (Marfleet and Blyth tender)	£4,880,634
Development on-costs	£ 453,180
Total anticipated scheme cost	£5,333,814

4.0 Funding

4.1 GLA Grant at £100,000 per property, (23 properties)
£2,300,000

4.2 HRA Capital Programme Project Code: A2348, Task 9.0 £3,033,814
£5,333,814

4.3 The scheme is broadly profiled to spend £2,461,760 in 2019/20 and £2,872,054 in 2020/21.

5.0 Breakdown of prices and costs

5.1 Appendix 1 Exempt details the tenderers submitted prices and final scores.

Key Executive Decision

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

- 1.0 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.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

- 1.0 The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:
- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
 - (iii) foster good relations between those who have protected characteristics and those who do not.
- 1.1 Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.
- 1.2 The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.
- 1.3 In accordance with the GLA London Housing Design Guide and 10% requirement on all developments for the inclusion of mobility adapted there is the provision of two properties for mobility impairment,
- 1.4 A small playground area is incorporated in the scheme to encourage healthy living and social interaction with parents with young children.
- 1.5 An Equality & Health Impact Assessment has been carried out, Appendix 2.

BACKGROUND PAPERS

None

APPENDICES

Appendix: 1 Exempt

Price and Quality Evaluation

Appendix: 2

Equality & Health Impact Assessment

Key Executive Decision

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

Details of decision maker

Signed:

Name: Gerri Scott

CMT Member title: Interim Director of Housing

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Committee Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on 5/6/2019

Signed 