

Key Decision Report of the Corporate Director of Housing and Adult Social Services

Officer Key Decision	Date: 27 November 2017	Ward(s): Bunhill
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Delete as appropriate	Exempt	Non-exempt
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SUBJECT: Contract Award for Peregrine House Reinstatement of Original Configuration as a Wet Riser Main Installation.

1. Synopsis

- 1.1 This report seeks approval for the contract award in respect of the reinstatement of the existing dry riser main installation back to its original c1971 configuration as a wet riser main installation, including bringing the installation up to current British Standards.
- 1.2 This work is to ensure that Council comply with the requirements from the London Fire Brigade (LFB) and the Council's own Building Control Services (BCS) to have a fully functional wet riser main installation operating to Peregrine House, failure to comply will result in HASS being served with an Enforcement Notice from the LFB and BCS. Given the recent tragic fire incident at Grenfell Towers these essential safety works cannot wait and need to be carried out as soon as possible, to ensure compliance and protection of the residents which is paramount to the Council.

2. Recommendations

- 2.1 To approve the contract award to AJS Limited in the total sum of £1,262,724 for Peregrine House reinstatement of the fire fighting main to its original configuration as a wet riser main installation to bring the fire fighting installation up to BS; 9990 2015, the current standard including a new dedicated electrical supply direct from the UKPN sub station, under the block.

3. Date the decision is to be taken: 05/12/2017.

4. Background

Peregrine House was built c1971 and is a 27 storey block of 210 purpose built flats.

Both Peregrine and Michael Cliffe Houses are high rise purpose built blocks, originally constructed with Wet Riser Mains (WRMs) installed to comply with the requirements of the Fire Regulations of the day, i.e. meeting British Standards Code of Practice 402.101 (1952).

In 2000 a substantial sum of money was required for both blocks, to ensure that their WRMs installations were maintained in keeping with the requirements of the current Fire Regulations. Unfortunately, the funding was not available. A decision was made to temporarily disconnect the pumps, storage tanks and water supply and convert the existing WRMs installations into Dry Riser Mains (DRMs). This was carried out in conjunction with and with the consent of both the LFB and the Council's own BCS team. The installations have subsequently been tested annually in their presence, with both parties signing off the DRMs as being compliant and fit for purpose, on an ongoing temporary basis.

In the summer of 2013 the BCS team informed the Mechanical & Electrical Section of HASS that they were no longer prepared to accept the existing temporary arrangement and that the installations be returned to WRMs. The corporate director of HASS signed up to this.

The reconfiguration works at Michael Cliffe House to provide a fully functioning WRMs installation, with two separate re-used risers, was completed in July 2017 by AJS Limited.

The installation at Peregrine House is fundamentally different to Michael Cliffe, as it has only a single 'riser' and not two. As a result, the prolonged impairment period, whilst the existing lone riser system is reconfigured would be unacceptable to the LFB.

The solution, as fully endorsed by the LFB, is to maintain the current temporary DRM as fully operational and install a new full height independent WRM and roof supply pipes, thus avoiding the need for any impairment and loss of LFB cover. Further the enhanced installation will be new and fully compliant with the current British Standard 1990 :2015.

The appointment of AJS Limited, who have proven technical ability and resources to undertake the works, will enable the new wet riser installation at Peregrine House to be completed, without impairment to the current temporary installation, all within approximately six months and satisfy the requirements of the LFB and our BCS.

5. Implications

5.1 Financial implications:

The 2012/13 Capital Programme report, dated 3rd July 2012, included a budget of £412k for Fire Fighting Facilities within the Fire Safety programme budget for 5 schemes. However, 3 schemes are now not progressing leaving the total budget for 2 schemes.

A tender for the first scheme Michael Cliffe (185 units) was approved at £362,676 and now has an estimated final cost of £923k, growth of £560k, inclusive of fees.

The estimated cost of the second scheme (Peregrine House; 210 units – this report) totals £1.402m inclusive of fees. The total growth to date is (£560k + £1.402m) £1.962m.

There are 27 leaseholders in Michael Cliffe with a total 'revised' leaseholder waiver cost of £135k and 57 leaseholders in Peregrine House with a total leaseholder waiver cost of £380k. The combined leaseholder waiver costs for this programme (2 projects) is £0.515m

The overall programme growth of £1.962m plus leaseholder waiver costs of £0.515m totals £2.477m.

In the short term this additional growth can be met from HRA resources.

However, growth items in relation to FRA & FED works totalling £36.1m were reported to HMT in June 2017, therefore the total new growth pressure identified in 2017-18 now stands at £38.6m.

The asset management strategy, financial impact of the capital growth & available resources will all be incorporated into the review/update of the wider HRA Business Plan to be reported & considered by HMT in Jan 18.

It should be noted that it is very likely that in order to balance the HRA Business Plan over the medium-long term HMT will need to consider delaying or even forgoing other capital works in order to accommodate this and the other more urgent fire safety related work.

5.2 Legal Implications:

The Council owes a duty to the tenants and leaseholders of Peregrine House to ensure that the areas of and installations in the blocks over which the Council retains control are kept in good repair and condition so that the premises are reasonably safe for their occupation (Section 11 Landlord and Tenant Act 1984, Health and Safety at Work etc. Act 1974, Occupiers Liability Acts 1957 and 1984 and Defective Premises Act 1976).

The works to install a wet riser at Peregrine House constitute a public works contract for the purposes of the Public Contracts Regulations 2015. The value of the works falls below the financial threshold for works contracts for the full application of those regulations and therefore the contract does not have to be advertised in OJEU.

However, contracts which may be of interest to contractors in other EU countries would ordinarily require some form of advertising in order to satisfy the EU principles of equal treatment / non-discrimination and transparency. Further, the provisions of the Council's Procurement Rules will apply and would require a full competitive tendering exercise with a minimum of five tenderers. Those rules provide that the requirement for competitive tenders may be waived for good operational and financial reasons.

The installation of a wet riser at Peregrine House is required in order to meet current health and safety and fire safety requirements. Delay in installing the wet riser may result in the statutory authorities taking enforcement action against the council and put at risk the safety of the residents. Accordingly, the installation of the wet riser needs to be undertaken urgently and therefore reasonably constitute special circumstances such as to justify waiving the requirement for competitive tenders.

Such decision would be susceptible to challenge particularly given the significant estimated value of the cost of the installation. In deciding whether to proceed with the installation of the wet riser without undertaking a competitive tendering exercise, the risk of a procurement challenge should be weighed up and balanced against the greater risk of enforcement action or prosecution being taken against the council if the works are not undertaken quickly and the potential risk of an incident occurring at the block leading to injuries to and claims from residents.

4.3 Environmental Implications

An environmental implications review was undertaken August 2014 and reviewed Nov 2017. There is no significant negative or detrimental impact, although an essential small quantity of diesel fuel will be stored in a bunded tank and used to power the secondary back up diesel fire pumps, in the event of failure of the principal electric fire pumps, that would operate in the event of a fire and will operate during statutory weekly testing.

Overall the works will have a positive impact, as they will enable any fire to be fought and controlled by fire fighters in a safe and efficient manner, minimising detrimental and adverse factors on the environment, enhancing the safety and protection of the inhabitants, fire fighters and building fabric.

4.4 Resident Impact Assessment:

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment has not been completed because the works are essential, will not have a negative impact on residents, once complete and will enhance the safety and protection of the residents, visitors and fire fighters.

4.5 Strategic Procurement:

The client commissioner has requested a waiver to immediately action health and safety fire-related improvements, following instructions from London Fire Brigade and Building Control. If the Council does not comply, this places a risk to human health. Failure to comply will result in an enforcement notice from London Fire Brigade and a separate notice from Building Control.

The level and extent of this waiver are significant in terms of value (£1,262,724). Strategic Procurement recognise the difficulties the commissioning team have had following recent tragic fire-related incidents. It is recognised that there is a need and community interest in for fire related protection. This request of extreme urgency from such unforeseen instructions of London Fire Brigade and Building Control.

The waiver will be given a unique identification from Strategic Procurement on the Corporate Contracts Database Register (CCDR). In regards to the Procurement Rules, the value falls in the band iv) £164,176 and above and thus would normally require a competitive tender unless a waiver to the Procurement Rules is agreed.

The current thresholds for the purposes of the Official Journal of the European Union (OJEU) are £164,176 for goods/services or £4,104,394 for works. The contract would be classified as works for OJEU purposes. The value exceeds the threshold that would require challenge by the Commissioning and Procurement Board, however in the circumstances, the Head of Strategic Procurement has waived this discretionary requirement under delegated authority. The value of the waiver also makes this a Key Decision which may be taken by the appropriate Corporate Director. The Corporate Director in taking the decision should satisfy themselves that this represents value for money for the Council.

6. Reasons for the decision:

- 6.1 AJS Limited have undertaken similar recent works that were competitively tendered, demonstrating value for money. They have a good knowledge of our stock, have performed well and exceeded our quality requirements with the works undertaken and were very proactive in addressing and recommending solutions to the unforeseen difficulties encountered on Michael Cliffe. Given the tragic fire incident at Grenfell Towers these essential LFB derived fire safety improvement works cannot wait and need to be completed as soon as possible. Agreement to this report will enable the new wet riser installation at Peregrine House to be completed, without impairment to the current temporary installation, within approximately six months and satisfy the requirements of the LFB and our BCS.

7. Record of the decision:

- 7.1 I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

Signed by:

Corporate Director Housing and Adult Social
Services

Date

Appendices: None

Background papers: None

Report Author: John Lloyd
Tel: 0207 527 2793
Email: John.Lloyd@islington.gov.uk

Financial Implications Author: Lydia Hajimichael
Tel: 020 7527 5160
Email: Lydia.hajimichael@islington.gov.uk

Legal Implications Author: David Daniels
Tel: 0207 527 3277
Email: Daniels.daniels@islington.gov.uk