



## Key Decision Report of the Corporate Director of Housing

<b>Officer Key Decision</b>	<b>Date: 27 November 2019</b>	<b>Ward: Bunhill</b>
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<b>Delete as appropriate</b>		Non-exempt
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## **SUBJECT: Contract Award for the demolition of Telfer House, EC1V 3QX, and the construction of 38 new homes**

### **1. Synopsis**

- 1.1 This report seeks approval to award a contract to build 38 new homes on the site of Telfer House.
- 1.2 The contract is for the demolition of the existing two storey block comprising 16 units of studios, 2 & 3 bedroom homes and for the construction of a part 5, part 6 storey block containing 38 new homes.

### **2. Recommendations**

- 2.1 To approve the award of a design and build (D&B) construction contract to Higgins Construction PLC (Higgins) for the sum of £13,964,383 as outlined in this report to construct 38 new homes.
- 2.2 To note the requirement under 4.1 Financial Implications to re-prioritise schemes within the current 3 year capital programme in order to accommodate the net cost pressure in the sum of an estimated £6.6m arising in respect of this contract award. In respect of the new site finder programme, it is important to note that the 30 year business plan estimates demonstrate this to be affordable, assuming the indicative ratio of social rented: private sale builds is 70 : 30.

## 2.1 **Date the decision is to be taken**

27 November 2019.

## 3. **Background**

3.1 The purpose of this report is to appoint a suitably qualified main contractor to carry out the construction of the 38 new homes as described below.

Tenure /Bedsize	1 Bed/2p – Wheelchair accessible units	1 Bed/2p	2 Bed/4p	3 Bed/5p	3 Bed/6p	TOTAL
No. of homes for social rent	2	7	13	4	0	<b>26</b>
No. of homes for private sale	2	0	8	0	2	<b>12</b>
<b>TOTAL</b>	<b>4</b>	<b>7</b>	<b>21</b>	<b>4</b>	<b>2</b>	<b>38</b>

- 3.2 The scheme received planning permission in April 2014. Higgins Construction PLC (Higgins) was the contractor directly appointed, from the existing framework, to submit a contract price to build out the scheme.
- 3.3 Existing tenants were successfully decanted. However vacant possession of the site could not be achieved as the council was unable to come to an agreement with the three remaining non-resident leaseholders.
- 3.4 Executive approval was awarded to pursue a compulsory purchase order (CPO) on 7<sup>th</sup> December 2015 for the remaining 4 properties. After a further period of negotiation, the council was able to conclude a deal with the remaining leaseholders to buy back their properties without the need to resort to the planned public enquiry.
- 3.5 Due to the lengthy period of negotiations to secure vacant possession of the building it was necessary to undertake work to prevent the expiry of the planning permission in April 2017. Approval was given in December 2016 to award to Higgins a minor works contract in order to activate the planning permission.
- 3.6 An updated tender to demolish the existing block and for the construction of the 38 new homes as detailed in the table above was received from Higgins in April 2019. It is this updated tender submission that forms the subject of this award report.

## 3.7 **Estimated Value**

The development is to be funded through the council's new build housing budget and the sale of the 12 private units.

- 3.8 The value of the contract is £13,964,383 with an estimated contract period of 94 weeks.
- 3.9 The cost consultant's report of June 2019 provided an anticipated updated build cost of £11,731,289. This figure included the costs for the actual connection to the Bunhill site. At the time of the previous tender in 2014 provision was made for a potential future connection only. Since this time the connection to the site has been made possible and as a result further changes in design to meet the requirements for the connection and the cost of the connection itself have been included in the updated submission made by Higgins.
- 3.10 The updated price of the contract submitted by Higgins was significantly more than the estimate provided by the cost consultant of £11,731,289 in the value for money report. The tender followed the contractors' framework procedure involving an open book approach allowing the cost consultant to interrogate the tender submission.
- 3.11 The cost consultant carefully scrutinised and checked all costs provided by the contractor including the subcontractor costs.
- 3.12 Some of the key reasons given by the contractor for the increase in costs were as follows:
- Updated LB Islington's Employers' Requirements (ERs) – there have been changes in both quality and materials in the ERs since 2014
  - Legislative changes post Grenfell affecting the cladding materials that could be used
  - Preliminaries have increased due to the management of health and safety issues following a revised build strategy
  - Additional costs relating to the connection to the Bunhill Energy Network
  - A number of items amended by the cost consultant to ensure there was sufficient budget for items such as asbestos removal and an increase in the quality of the glazing of the windows
  - Increase in costs in both labour and material due to ongoing economic uncertainty currently affecting the wider construction industry
- 3.13 The cost consultant, Summers Inman, is satisfied that the price submitted by Higgins is reasonable given the following:
- A comparison of the build rate per square metre of £3,348 compared favourably with 6 other Islington projects
  - All requests for information provided satisfactory clarification/explanation
  - Checks on costs such as design and fees were as expected and items such as overheads and profit and fixed price were as per the framework agreement
- 3.14 Summers Inman are therefore satisfied that they have undertaken a robust review of the submission and are satisfied that the figures provided in the contract sum analysis cannot be disputed.

### **3.15 Timetable**

- Key Officer Decision – November 2019
- Start on site – January 2020

- Completion - August 2021

### **3.16 Procurement Process**

Higgins Construction PLC had previously been appointed by Islington Council as a Framework Constructor for the New Build Development Programme following a competitive tendering exercise in accordance with EU procurement legislation. Under the Framework Agreement a new build works contract may be awarded to a Framework Constructor either by following a mini competition or by a direct selection (a call off). Higgins Construction PLC were selected under the direct call off procedure.

- 3.17 Higgins can be directly appointed to carry out the works detailed in 1.2 above provided that their costs are reasonable, acceptable and provide value for money for the council. The cost consultant has confirmed that figures have been checked for accuracy, that costs are reasonable, given the prevailing conditions, and that in conclusion this tender provides value for money for the council. Further details can be found in the cost consultant's value for money report attached as Appendix 1.

### **3.18 Key Considerations**

All contractors appointed to the framework have been required to sign up to paying their own employees, and those employed by their sub-contractors, the London Living Wage. In addition Higgins have allowed for 4 x apprentices for the duration of the project – this is in line with the Employment and Training Code 2018 as detailed in Appendix S of the 2019 LB Islington's Employer's Requirements.

- 3.19 Further, all framework contractors have signed a declaration to confirm that they have not and/or will not participate in the blacklisting of trade union members or activists contrary to the Employment Relations Act 1999 (Blacklisting) Regulations 2010 and the Data Protection Act 1998.
- 3.20 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.
- 3.21 The new homes will be built to high standards in terms of environmental sustainability, meeting Level 4 of the Code for Sustainable Homes. They will be very energy efficient meaning they will be cheaper to run for the residents who live in them, helping to keep down the cost of living. The connection to Bunhill CHP (Combined Heat and Power) Network, which is now possible, will result in cheaper, greener heat to all the new homes.

### **3.22 Business Risks**

Given the ongoing involvement of Higgins Construction PLC in this project the business risks associated with this procurement are limited given their experience and knowledge of the site, the previous work they have undertaken and the commitment Higgins Construction PLC have demonstrated. The higher than expected costs need to be balanced with the time it would take

to undertake another procurement exercise, the likelihood in the further increase in costs as well as the lost detailed knowledge of the scheme. An additional risk of not appointing Higgins is the exceptional political and economic circumstances the UK is facing in relation to leaving the EU in the coming months. This period of uncertainty will have an additional financial impact on a further procurement exercise. Changes in the financial and construction market will need to be closely monitored.

3.23 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.8 of the Procurement Rules:

<b>Relevant information</b>	<b>Information/section in report</b>
1 Nature of the service	This report seeks approval for the appointment of a main contractor  See paragraph [1.2]
2 Estimated value	The estimated value is £13,964,383.  See paragraph [3.7]
3 Timetable	The timetable is outlined in this report  See paragraph [3.15]
4 Procurement Process	Social economic, environmental considerations, equality, diversity and inclusion form part of the contractor's submission.  See paragraph [3.16]
5 Key Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	Social economic, environmental considerations, equality, diversity and inclusion form part of the contractor's submission.  See paragraph [3.18]
6 Any business risks associated with entering the contract	Business risks are as described in this report  See paragraph [3.22]
7 Any other relevant financial, legal or other considerations.	See paragraphs [4.1- 4.4]

## 4. Implications

### 4.1 Financial implications:

The Table 1 below sets out the capital expenditure budget and financing included in the approved 3-year capital programme (2019/20 to 2021/22) in respect of the Telfer House scheme, comprising the build of 26 social rented properties & 12 for sale properties.

The expenditure budget of £11.372m included estimated construction related costs of £10.700m and fees of £0.700m. In terms of the financing, at budget setting assumed scheme specific capital resources totalled £13.164m.

In addition, prior years' expenditure totals £3.020m (of which £2.500m were leaseholder buybacks). The balancing net capital cost of £1.228m was planned to be financed from a combination of other non-scheme specific capital resources such as S106, the LA share of RTB receipts or borrowing.

Table 1 – Telfer House scheme – Capital Expenditure Budget and Financing included in approved 3- year capital programme (2019/20 to 2021/22)

	£m
Prior Yrs Exp. (primarily Buy Backs)	£3.020
<b>Approved at Budget Setting 19-20 for the 3 years 19-20 to 21-22</b>	
GROSS EXP. BUDGET	£11.372
Scheme Specific Resources RTB 141s & OMS sale Receipts	<b>-£13.164</b>
NET	<b>£1.228</b>

Table 2 below sets out the latest expenditure forecast in respect of the Telfer House scheme based on the tenure split agreed at budget setting (the expenditure forecast of £15.271m includes the construction price as submitted by this report's recommended contractor - £13.964m) this indicates an increase in expenditure of £3.899m.

The latest anticipated open market sale prices which have fallen significantly as compared to previous assumptions - from an average of £0.910m p/unit to an average of £0.690m p/unit, a total fall in resources of £2.756m.

As such the 3year capital programme budget pressure totals £6.654m.

In terms of value for money (para. 3.12) sets out the key reasons for the construction price increase from that which was estimated at budget setting. The report also confirms (para. 3.13) that an independent expert has undertaken a detailed review/assessment of the preferred contractor's costings and has confirmed that in their view the price is reasonable and represents value for money.

Table 2 – Telfer House Scheme – Latest expenditure forecast.

	£m
Prior Yrs Exp. (primarily Buy Backs)	£3.020
<b>Latest Forecast</b>	
GROSS EXP.	£15.271
Scheme Specific Resources RTB 141s & OMS sale Receipts	<b>-£10.409</b>
NET	<u>£7.882</u>
INCREASE in GROSS EXP.	£3.899
REDUCTION in OMS Receipts	<u>£2.756</u>
NET Pressure	<u>£6.654</u>

In terms of affordability this £6.654m budget pressure can be accommodated within the 30 year HRA business plan. The impact of increased borrowing to fund the shortfall can be accommodated within the business plan in the short term & in the medium/long term the business plan would need to reflect a reduction in the ratio of social rented : private sale builds, in respect of the new site finder programme, from an indicative ratio of 80 : 20 to an indicative ratio of 70 : 30 so as to accommodate the increased borrowing costs arising from an increase in construction prices across a number of schemes within the current new build programme.

In terms of this contract award the majority of expenditure will not be incurred until post the start of the financial year 2020/21 and as such this budget pressure will not impact in the current financial year.

However, a decision to progress with this scheme now by awarding this contract will potentially place a strain on the availability of the capital budget provision in respect of the current overall 3-year new build programme & will therefore require other schemes to be re-prioritised/delayed to beyond the current 3-year approved capital programme envelope 2019/20 – 2021/22.

The Director of New Build is confident that this budget pressure can be managed in the short term by re-prioritising schemes that are at post planning/feasibility stage and as such not imminently at contract award stage and therefore not adversely impacted by being slipped forward.

The next 3-year capital programme is due to be reviewed and considered as part of the 2020/2021 budget setting cycle and it is as part of this process that individual scheme budgets and sources of financing will be re-visited, in light of anticipated increases in construction costs, in the context of affordability and the HRA business plan.

## 4.2 Legal Implications:

Under Section 9 of the Housing Act 1985 the Council has power to provide housing accommodation by building houses on land acquired for that purpose or by converting buildings into houses. The Corporate Director has authority to award contracts under a

framework agreement without limit where the capital spend is part of the approved capital programme (paragraph 8.7 of Part 3 of the Constitution)

Higgins Construction plc has been appointed as a Framework Contractor for the New Build Programme following a competitive tendering exercise in accordance with EU Procurement Legislation. Under the Framework Agreement a new build works contract may be awarded to a Framework Contractor following a mini competition subject to a value for money assessment.

Higgins Construction plc submitted the highest scoring tender through a mini-competition between Lot 2 Contractors appointed to the Framework. As the successful Stage 1 contractor, they were invited to submit a tender for the main construction works, The award of a Stage 2 build contract for the demolition of Telfer House and construction of 38 new homes is subject to the council being satisfied that the price represents VFM and is otherwise acceptable to the council.

In considering the recommendation in this report, the Corporate Director of Housing should have regard to the information set out in the report and be reasonably satisfied that Higgins Construction plc's tender represents VFM.

#### **4.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030:**

It will be essential during both the pre-construction and construction periods to ensure the contractor adheres to environmental legislation, particularly around waste regulations. The contractor will be required to implement the waste hierarchy, giving priority to reuse and recycling, and the council has a duty of care to ensure that the contractor has the appropriate waste licences and permits.

During any site works, careful management of local nuisance issues such as noise, dust and air pollution will be required and vibrations during groundworks. Particular attention will be required in terms of health and safety, site set up and the access and site delivery arrangements as the site is on the main road and close to the estate at Kings Square, where Higgins have recently completed Phase 2. Travel to and from the site should be minimised to reduce the impact of vehicular emissions and traffic congestion in what is already a very busy area.

#### **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 (RIA) was completed on 20 August 2014 which identified that there would be minimal negative impacts, primarily affecting the then existing residents and leaseholders. The new scheme will provide new homes to wheelchair users, families, young people, older people, social and private residents. In addition, the communal amenity space will be for all residents to enjoy and this will provide an opportunity for socio-economic benefits.

## 5. Reason for recommendations

5.1 Higgins are one of the contractors who had been appointed to Lot 2 of the New Build Contractor Framework 2014-18. They have provided cost values and design fee percentages acceptable to the council's appointed quantity surveyor (QS) in order to undertake the main construction contract for this new build project. While the price was much higher than expected the QS has since satisfied himself that through a series of checks and comparisons, both with Islington's own schemes and the wider construction market in London, the contract price submitted by Higgins is fair and acceptable.

Our employer's agent (EA) and QS has found that although the cost values are relatively high, given the complexity of the scheme, the quality of the submission and volatile nature of the market, there is benefit in proceeding with the Higgins tender submission and that therefore, the contract price provides relative VFM for the council.

### Appendices

- Exempt Appendix 1 - Telfer House Value for Money report – compiled by the cost consultant, Summers Inman
- Appendix 2 - Resident Impact Assessment

**Background papers:** None

Final report clearance:

**Signed by:**



Corporate Director of Housing

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