

Key Decision Report of the Corporate Director of Housing

Officer Key Decision	Date: 16 th October 2020	Ward: Highbury East
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Delete as appropriate	Exempt	Non-exempt
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Appendix 1 to this report is exempt and not for publication as it contains the following category of exempt information as specified in Paragraph 96.4, category 3, of Access to Information Procedure Rules, Schedule 12A of the Local Government Act 1972, namely: information relating to financial or business affairs

SUBJECT: Park View Estate – To award the main contract for the construction of thirty eight new homes, improvement to public realm and the provision of a community room

1. Synopsis

1.1 This report seeks agreement to award a JCT Design and Build (2016) contract for the value of £18,434,907 for new build scheme on the Park View Estate. The scheme will deliver 38 new homes for social rent, a community room, a secure community storage space and associated landscaping and public realm improvements.

The tender price submitted by Mulalley was £19,439,511 which included PCSA costs (previously awarded) of £1,004,604 leaving a balance of £18,434,907 which this report seeks approval.

A mini-competition was undertaken in accordance with the New Build Contractor Framework 2014-18 and policies and procedures adopted by the Council.

1.2 The submitted tender for the Stage Two construction works has been assessed as fair and reasonable by our appointed Employers Agent and QS Consultants (Calfordseaden) and their report is attached as Appendix 1.

2. Recommendation

- 2.1 To approve a JCT Design & Build (2016) Main Contract to the value of £18,434,907 to Mulalley & Company Limited (Mulalley) to undertake the design and build construction of 38 new homes, a new community room, a secure community storage space and associated estate landscaping and public realm improvements.

3. Date the decision is to be taken

16th October 2020.

4. Background

- 4.1 Park View Estate was constructed in the mid 1950's and is situated in the north west of the borough in the Highbury East Ward. A predominantly residential part of the borough with the estate surrounded mainly by a mixture of 4 and 5 storey Victorian semi-detached houses. Park View Estate currently consists of 7 blocks which range in height from 4 to 8 storeys and provides 130 homes.

4.2 Nature of the Service

The new build scheme will deliver 38 units across 5 new blocks. The scheme comprises of a mixture of high quality residential accommodation, a new community room, a secure community storage area and improved public realm and landscaping works.

The total number of units per block and make up are as detailed in the table below.

Residential Block	Number of units
Block A	11
Block B	2
Block C	7
Block D	4
Block E	14
Total	38

Over all the scheme will deliver a range of unit sizes as detailed in the table below

Tenure / Bed size	1 Bed 2 Person	2 Bed 3 Person	2 Bed 4 Person	3 Bed 5 Person
Nos. of homes for social rent.	8	3	25	2

All 38 new units are for social rent.

Extensive consultation with local residents and ward Councillors has been undertaken since 2016 and a planning application was submitted for planning approval in October 2017.

The scheme was granted planning approval on the 9th October 2017 under planning application reference P2017/2444/FUL.

4.3 Estimated Value

Mulalley initially submitted a stage two tender on 7 June 2019 in the amount of £18,807,171. A lengthy review and value engineering exercise subsequently took place culminating in a revised contract sum being submitted on the 18 August 2020 in the amount of £18,434,907. See Appendix 1.

4.4

Timetable

Key recordable decision – 16 October 2020

Start on Site – Q2 2020

Completion – Q2 2023

4.5

Options appraisal: Procurement

The scheme is being delivered via a two-stage JCT Design & Build Contract (2016).

For the majority of new build housing projects the council's preferred approach is to employ the Joint Contracts Tribunal, (JCT) Design and Build form of contract. The benefit of this form of contract is that the responsibility for design sits with the contractor, who also takes all design related risks for the project, thereby minimising the risks to the council.

Islington's Contractors Framework, use contractors with an established long term relationship with Islington due to substantial volumes of work provided by the council. Their local experience of working with the council, its standards of care and priorities are considered key.

Following responses to the Stage One tender carried out in accordance with the provisions of the New Build Contractors Framework 2014-2018, a Pre-Construction Service Agreement (PCSA) for early enabling works up to the value of £884,369.00 was awarded to Mulalley in March 2018.

A tender price was submitted by Mulalley on the 7 June 2019 in the sum of £18,807,171.50.

Following an assessment by the Cost Consultant (Calfordseaden), the Stage 2 tender price was not considered value for money in August 2019. A value engineering exercise to reduce the costs prompted a review of the scheme proposal as a whole, which resulted in the omission of some of the less economic components of the work.

£310,000 of savings were identified through the value engineering exercise with the most significant saving achieved by omitting the less economical block (x2 units) and changes of materials for landscaping works.

A revised tender of £18,434,907 (exclusive of PCSA) was received from Mulalley in August 2020 and it's this updated tender submission that forms the subject of this award report.

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.

All Framework contractors have signed a declaration confirming 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.

4.6

Key Considerations

The New build scheme will deliver 38 high quality new homes and will be 100% social housing.

In line with planning policy, the new homes are car free and their performance will be measured against key sustainability indicators captured in a Green Performance Plan.

This new build development is expected to bring further social benefits, including S106 contributions towards improvements in the vicinity and environmental improvements to the public realm within and around the estate. For the Park View Estate, this includes financial commitments to improve sustainability and offset carbon.

All new build developments are designed in accordance with the Council's planning requirements and the Employers Requirement's (ER's) included in the building contract to address the social and environmental sustainability. The contractor is an exemplar under the Code of Construction Practice and will provide a minimum of four construction trade apprentices from the local area, to be employed at the development during the two year construction period.

The contractor is obliged to produce a community liaison strategy and ensure compliance with the Code of Local Procurement. These are set out in the tender method statements submitted at First Stage outlining the Contractor's qualitative approach to delivering the contract including site and contract management, Health & Safety, and customer care.

Best Value has been achieved following extended discussions with the Contractors over the detailed design and pricing and commercial negotiations to arrive at a better price, under challenging circumstances.

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. The London Living Wage will be a condition of the contract being entered into, as far as is legally permitted.

There are no TUPE, pension or staffing implications related to the award of this contract to Mulalley.

Evaluation

The value of the main works contract to be awarded is £18,434,907 (exclusive of the previously awarded PCSA).

The estimated contract period is 134 weeks.

The contract sum received from Mulalley on 18 August 2020 in the sum of £18,434,907 equates to circa £485k per unit.

The Employer's Agent and the Cost Consultant (Calfordseaden) are satisfied that the price submitted by Mulalley is reasonable following a lengthy procurement and design development process given the following:

- The Employers Agent and the Cost Consultant (Calfordseaden) do not consider that it would be possible to procure the designed scheme as it stands for less than the sum submitted by Mulalley.

- A significant proportion of the proposed contract sum has been developed under competitive conditions with Mulalley sub-contractors. These have also been checked by Islington's Cost Consultant (Calfordseaden) who confirm the sub-contractors quotes represent value for money.
- Mulalley have provided and are obliged to continue supplying details of their costs on an open book basis. This will enable costs to be continuously monitored during the course of the works.
- When benchmarked the contract sum submitted by Mulalley, compares favourably with other similar schemes that have recently been tendered under a two stage procurement route with the Islington

The Cost Consultant, Employers Agent and Islington will monitor the costs as the works proceed, verifying the legitimacy of Mulalley measurements and valuations.

The Costs Consultants are recommending that the council should consider proceeding proceed with Mulalley for this project in the sum £18,434,907.

4.7

Business Risk

Mulalley have allowed for the works to comply with current Building Regulations and have included for enhancement full sprinkler installations to all new blocks. However, should there be further changes to Building Regulations Mulalley will consider these as a variation to the contract.

The existing block known as 69-96 is currently being investigated for causes to cracking to the external walls by London Borough of Islington (LBI). There is a joint risk to both LBI and Mulalley as the new block (Block C) will be adjoining block 69-96. Engineers report will be need to be assessed before any foundation works are carried out.

The Employers Agent and Cost Consultant (Calfordseaden) have recommended that Islington, Calfordseaden and Mulalley review and agree the schedule of drawings, reports and ancillary documents upon which the stage two contract sum analysis is based and also review and agree the schedule of divergence to clauses within the Employers Requirements to enable the Contract documents to be finalised to enable a start on site in October as per the programme issued by Mulalley.

Islington legal teams have confirmed that the JCT does not put any risk with Islington in relation to unforeseen delays caused by Covid-19 and BREXIT. However, Islington will work with its contractors to determine the best possible outcome for the scheme. Initial legal advice is that there will be no additional cost to the contract but maybe additional time allowed for completion.

Risk Management

It is prudent that the council allows for a separate 5% contingency within the project appraisal/ business plan to cover potential employer risks.

Due to possible exceptional circumstances the UK may face in relating to leaving the European Union in the short term future, relevant financial and construction market risks will have to be closely monitored going forward which may impact on levels of contingency.

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.

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

Relevant information	Information/section in report
1. Nature of the service	This report seeks approval for the appointment of a main contractor for construction of 38 genuinely affordable social rented homes. See paragraph 4.2
2. Estimated value	The estimated value is £18,434,907 See paragraph 4.3
3. Timetable	The timetable is outlined in this report. See paragraph 4.4
4. Procurement Process	The outcome of the procurement options appraised are described within this report. See paragraphs 4.5
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 paragraphs 4.6
6. Any business risks associated with entering the contract	Business risks are as described in this report See paragraphs 4.7
7. Any other relevant financial, legal or other considerations.	See paragraphs 5.1-5.4

5. Implications

5.1 Financial Implications

The report indicates that a mini competition held in accordance with the Council's framework contractor policies & procedures has led to the recommendation that the design & construction contract to deliver the scheme as described in this report be awarded to Mulalley & Co. Ltd in the sum of £18.435m.

The report confirms that external QS consultants have assessed the contract price (in respect of the 38 residential unit build + affordable space) as being fair and reasonable & providing VFM.

PCSA spend £1.005m and Main contract cost £18.435m, totalling £19.440m (to Mulalley & Co. Ltd) equates to (PCSA & Construction cost) circa £512k per unit.

The Tender Acceptance (stage 3) financial viability assessment for this scheme indicates that the scheme can be accommodated within current forecast budget provision (as at M5) which stands at a total of £21m, this forecast includes the cost of construction referred to in this report plus fees & the recommended 5% client contingency.

The scheme will be funded from an estimated; £6.242m of RTB 141 receipts, other net receipts/Non-RTB sales £2.945m & £11.813m of HRA borrowing.

It should be noted that this scheme is now designed to provide 100% social rented properties. This scheme was originally set to deliver 55% social rented, however, the open market sale properties were flipped to social rented in the autumn of 2018, when the HRA debt cap was lifted and we sought to access a new source of funding in the form of GLA grant (we subsequently swapped the GLA grant for GLA ring fenced RTB 141 receipts as these receipts are set to expire in March 22 & provide a higher resource contribution per unit). The increased cost of HRA borrowing (i.e. interest at an estimated 3%) in the sum of around £354k per year, is being funded by housing management, repairs & capital absorbing the increased running costs that would arise as a result of stock numbers increasing in respect of the entire current new build programme.

However, it should be noted that the original budget related to the delivery of a 40 unit scheme & as such whilst the scheme does not give rise to additional pressure in budgetary terms, there is an underlying increase in cost of around £800k given that the scheme was budgeted to deliver 40 units and this has now been reduced to 38 units.

5.2 **Legal Implications**

The Council has power to provide housing accommodation by building houses on land acquired for that purpose or by converting buildings into houses and to provide facilities in connection with the provision of housing accommodation (sections 9 and 12 Housing 1985). 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 and paragraph 1 of Appendix 3 to the Constitution)

Mulalley & Company Limited was appointed as a Framework Contractor for the New Build Programme following a competitive tendering exercise in accordance with EU Procurement Legislation. Under the Housing New Build 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.

Mulalley & Company Limited submitted the highest scoring tender through a mini-competition between Lot 2 Contractors appointed to the Framework. As the successful Stage 1 contractor, the constructor may be awarded a Stage 2 build contract for the Park View Estate new build project subject to the Corporate Director of Housing being satisfied that the price represents value for money 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 exempt appendices to this report.

5.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030

The building of new dwellings has several environmental impacts, both during the construction of the buildings (material use, waste generation, nuisances such as dust and noise) and during the long-term occupation of the dwellings (energy and water use and transport facilities).

Mitigation measures will be put into place to reduce both sets of aspects. The contractor will be required to submit proposals on how they will keep their environmental impact to a minimal including their proposals for a Site Waste Management Plan.

Environmental sustainability has also been considered in the design, and the dwellings will meet the Code for Sustainable Homes Level 4, which requires key sustainable targets and objectives to be met including low energy, low carbon and water conscious design.

The proposals will also take into account life time homes standards.

5.4 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 was completed in September 2020. The complete Resident Impact Assessment is attached as appendix 2 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 and families of all age groups. In addition, the community room, secure community storage area and enhanced landscaping and public realm improvements will be for all residents to enjoy providing an opportunity for socio-economic benefits.

6. Reasons for the decision (summary)

Mulalley are one of the contractors who had been appointed to 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 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, as well as through the value engineering exercise, that the contract price submitted by Mulalley fair and acceptable.

It is therefore recommended that a Design & Build construction contract is awarded to Mulalley for the sum of £18,434,907 (exclusive of PCSA) to construct 38 high quality social homes and associated estate improvements.

7. Record of the decision: (to be completed after 5 days on the website and re-sent to Democratic Services)

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 of Housing

Date:

Appendices

- Appendix 1 – Tender and analysis report – Exempt
- Appendix 2 – Resident Impact Assessment

Background papers

None

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