

Key Decision Report of the Corporate Director of Housing

Officer Key Decision	Date: 16 th October 2020	Ward: St Mary's
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Delete as appropriate	Exempt	Non-exempt
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Appendices 1 and 2 to this report are exempt and not for publication as they contain the following category of exempt information as specified in Paragraph 96.4, category 3, of Access to Information Procedure Rules, Schedule 12A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: Award of a main Design & Build contract for the construction of forty-one new homes, a new community space and associated landscaping and public realm improvements on the Dixon Clark Court Estate, N1

1. Synopsis

- 1.1 This report seeks agreement to award a JCT Design and Build (2016) contract to the value of £14,786,851 for the Dixon Clark Court New Council Homes scheme to Higgins Partnerships for the design and build construction of forty-one new homes, a new community space and associated landscaping and public realm improvements on the Dixon Clark Court Estate, N1.
- 1.2 A mini-competition has been undertaken in accordance with the New Build Contractor Framework 2014-18 and policies and procedures adopted by the council.
- 1.3 The submitted tender for the Stage Two construction works has been assessed as fair and reasonable by our appointed Employers Agent and QS Consultants Walker Construction Consultants (WCC), report attached as exempt Appendix 1.

2. Recommendation

- 2.1 To award a JCT a Design & Build (D&B) Main Contract to the value of £14,786,851 to Higgins Partnerships to undertake the design and build construction of forty-one new homes, a new community space and associated landscaping and public realm improvements on the Dixon Clark Court Estate, N1.

3. Date the decision is to be taken

16th October 2020.

4. Background

Nature of the Service

- 4.1 The Dixon Clark Court Estate is located in St. Mary's Ward, London, N1. The site has street frontage onto Highbury Roundabout and Canonbury Road to the west and is also adjacent to Highbury Corner (forming the junction of Holloway Road and Upper Street). The existing estate comprises a 15-storey residential tower (Dixon Clark Court built in 1967), concrete hardstanding and car parking, the vehicular access route, storage, substation, communal garden and green buffer with mature trees along the street frontage.
- 4.2 The new build scheme comprises the provision of 41 new homes (27 social rent, 14 open market sale), provided in five residential news blocks ranging from 1 to 4 storeys in height and one residential block of 6 storeys in height, bicycle storage and improvements to the public realm; the provision of 39sqm of space for community use; and the demolition of lock-up storage units and site management office, the demolition and relocation of the sub-station; and the conversion of two existing dwellings to bicycle, refuse and ancillary storage.
- 4.3 The breakdown of new units by blocks include:

Residential Blocks	No. of units
Site 1	3 units
Site 2	3 units
Site 3	3 units
Site 4	8 units
Site 5	10 units
Site 6	14 units
Total	41 units

- 4.4 The accommodation schedule of the scheme is as follows, including 4 wheelchair accessible units:

Tenure/ Bedsize	1 Bed/2p	2 Bed/4p	2 Bed/3p	3 Bed/5p	4 Bed/6p
No. of homes for social rent	5	18	1	2	1
No. of homes for private sale	1	7	5	1	

- 4.5 An extensive programme of public consultation has been carried out during the design development of the proposals since 2015, including consultation with Dixon Clark Court residents, local area residents and the Canonbury Primary School.

The scheme was granted planning approval on the 26 September 2018 under Planning Application reference **P2017/2936/FUL**.

Estimated Value

- 4.6 The second stage tender price submitted by Higgins Partnerships for the Main D&B Contract is £14,786,851, including a negotiated saving of £207,980 with an estimated contract period of 111 weeks.
- 4.7 The scheme is delivering new council homes with a new community space and associated landscaping and public realm improvements and is funded through the council's New Build housing budget.

Timetable

- 4.8
- Key Officer Decision – September 2020
 - Start on Site – Q3 2020
 - Completion – Q3 2022

Options appraisal - Procurement

- 4.9 The scheme is being delivered via a two-stage JCT Design & Build Contract (2016) calling off Lot 2 of the 2014 -18 LBI New Build Contractor Framework (now expired) in compliance with the terms of the contract and council policies and procedures.
- 4.10 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.
- 4.11 As part of this procurement strategy the following procurement routes were considered:
- Option 1 - Utilising Islington's in house Contractor Framework agreement (2014-18) which was still active at the time of first stage tender.
- Option 2- A competitive tender using an external procurement framework: This option was discounted, as the benefits of opening out to new contractors were outweighed by the fact that there is considerable overlap in terms of suitable suppliers between frameworks, and one-off contracts would be less significant for the contractor, weakening LBI's leverage.
- Option 3 – Competitive tender via OJEU advert/ open or restricted procedure: This procurement route was rejected as it would have delayed the project by 4-6 months.
- 4.12 In order to speed up the delivery of the scheme it was decided to utilise the council's own 2014-18 Contractors Framework, whose contractors have established longer term relationships and investment in LBI, due to the substantial volume of work provided by the council. Their local experience and experience of working with the council, its standards of care and priorities, were considered key. The buoyant housing market with abundant work on offer also weighed against the option to go for an external framework or tender on the open market, as this would have caused delay without necessarily bringing additional benefits.
- 4.13 Following responses to 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 £674,511.5 was entered into with Higgins

Partnerships on 14 January 2019, for 25 weeks based on an initial estimated construction value of £12,717,814

4.14 Subsequently the PCSA has been extended to allow for design development and the mitigation of project risk (see 4.30) during which time a rigorous audit of Higgins Partnership Stage 2 Tender price of £14,786.851 was undertaken as detailed in Appendix 1 (Exempt). Where required the Employer's Agent and the Cost Consultant Walker Construction Consultants (WCC) has challenged costs, resulting in a negotiated saving of £207,980 included in the above Tender price. It is this 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.

4.15 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.

Key Considerations

4.16 When measured by the number of habitable rooms provided by the Dixon Clark Court new build scheme, the scheme provides 66% social rent and offers a good mix of tenures. 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.

4.17 In addition to the reprovided green space and landscape strategy, the new build scheme involves over-riding planning benefits. Moreover, the proposal has been well designed with a consideration and respect for both the existing estate and the adjoining Conservation Areas as well as the setting of the listed buildings.

4.18 All new build development is expected to bring further social benefits, including S106 contributions towards improvements in the vicinity of and environmental improvements to the public realm within and around the estate. For the Dixon Clark Court new build scheme, this includes financial commitments to improve accessible transport, to offset carbon and tree planting.

4.19 In terms of replacement planting, 14 new trees will be planted on the estate as well as at an identified 7 further sites within 100m of Dixon Clark Court. The new trees identified off site are funded and will be planted in this year's planting cycle, between November and March. A further 43 trees will be planted on sites around the Borough before the homes are complete. As such, new planting will meet or exceed Carbon Absorption and achieve canopy cover equivalence in year 20. Trees will be planted in specially designed planting pits incorporating Biochar which is a soil ameliorant for both carbon sequestration and soil health benefits. Biochar will be used in all the new planting and for the soil remediation for the retained trees.

4.20 As regards biodiversity, the frontage of the estate will be improved with additional wild grasses, a hedgerow and indigenous plants contributing to a greater range of wildlife while also combating the effects of pollutants with a mix of grasses, bulbs, wild flowers, shrubs and perennials and has been designed to be species rich, and also structurally rich to maximise biodiversity. The development is deemed to be air quality neutral.

4.21 All new build development is designed in accordance with the Council's planning requirements and the Employers Requirement's (ER's) included in the building contract to address 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.

- 4.22 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.
- 4.23 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.
- 4.24 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.
- 4.25 There are no TUPE, pension or staffing implications related to the award of this contract to Higgins Partnerships.

Evaluation

- 4.26 The value of the main works contract to be awarded is therefore £14,786.851 (exclusive of the previously awarded PCSA). The estimate contract period is 111 weeks.
- 4.27 The construction of the new homes faces challenges impacting upon the price:
- 41 No. flats are spread across six buildings spread across a large site footprint
 - An existing tower block is located at the centre of the building site requiring substantial resident interface to ensure safety is never compromised.
 - Building works take place close to boundaries requiring additional safety measures and resident interface.
 - The proximity to Network Rail's tunnel has led to revised timescales, plus surveys, monitoring and administration.
 - Underground service diversions are required as is the relocation of a substation.
 - The project is logistically complex, with limited space for materials to be housed on site. There will be only one site entrance, located by a busy gyratory requiring additional coordination and safety measures.
- 4.28 The Employer's Agent and the Cost Consultant (WCC), are satisfied that these risks are adequately mitigated following extension of the PCSA to address these issues. They also confirm that the proposed contract sum offers value for money and recommends the council proceed with the contract with Higgins Partnerships as detailed in Appendix 2 (Exempt).
- 4.29 The new homes and ancillary improvements planned for the Dixon Clark Court estate are being funded through the council's New Build housing budget and GLA Right to Buy Ringfence grant.

Business Risks

- 4.30 In the second stage tender report of 13 December 2019 as detailed in Appendix 1 (Exempt), WCC highlighted the following residual risks:

1. Provisional sums, notably hazardous spoil being insufficient
 2. Piled foundations require modified design to sleeve piling
 3. Network Rails processes cause additional delays
 4. Section 73 amendment to the planning application
- 4.31 Lengthy engagement with Network Rail to progress matters relating to the main line tunnel in proximity to the site account primarily for the extended period of the PCSA and delay in getting into contract for the main works.
- 4.32 Provisional sums are now relatively fixed because the piling monitoring methodology has been agreed with Network Rail and service diversions already agreed with UKPN and Thames Water.
- 4.33 The Section 73 amendment to the planning application were minor design changes that have been already consulted upon and agreed. The ground remediation works are costed and included in the Main Contract and further mitigated against with the contractor accepting any further financial risk when on site.
- 4.34 The other main key risks which remain for Islington Council are the following:
- Covid-19 - programme delays
 - BREXIT- supply chain disruption and cost increases
 - Impacts on Local Residents

Risk Management

- 4.35 Whilst the Contractor will be addressing elements of risk and has allowed a risk contingency of 0.5% as required as a declared fund under the Contractors Framework, it is important that the council also allows for a separate 5% contingency within the project appraisal/ business plan to cover potential employer risks.
- 4.36 Risks in the ground: The PCSA was used by Higgins Partnerships to undertake investigations (including soil and other site surveys and apply for service diversions), to allow for accurate design and construction costs and more programme certainty.
- 4.37 Party Wall Notices, Build Over Agreements and Services have been either completed or the majority resolved.
- 4.38 Given the exceptional circumstances the UK is facing relating to leaving the European Union (BREXIT) in the next month's/years, relevant financial and construction market risks will have to be closely monitored going forward (and extra contingency allowed).
- 4.39 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.

4.40 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 41 new homes, 27 genuinely affordable social rented homes. See paragraph 4.1-4.5
2. Estimated value	The estimated value is £14,786.851 See paragraph 4.6-4.7
3. Timetable	The timetable is outlined in this report. See paragraph 4.8
4. Procurement Process	The outcome of the procurement options appraised are described within this report. See paragraphs 4.9– 4.15
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 4.16 - 4.27
6. Any business risks associated with entering the contract	Business risks are as described in this report See paragraphs 4.28 – 4.39
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 Higgins Partnership in the sum of £14.787m.

The report confirms that external QS consultants have assessed the contract price as being fair and reasonable & offering the Council VfM.

The Tender Acceptance (stage 3) financial viability assessment for this scheme indicates that the net impact of the increased construction contract price & changes in anticipated receipts creates a net budget pressure of £1.574m. However, increased resources B.Fwd from 2019-20 mean that this pressure can be accommodated within resources available to the overall new build programme.

The latest forecast total scheme cost (included in the new build programme at M5), WEF 2020-21, stands at £17.132m, this forecast reflects the latest cost of construction referred to

in this report plus fees & the recommended 5% client contingency. The scheme will be funded from open market sales receipts, RTB receipts & HRA borrowing.

In terms of the 2020-21 budget provision, delays arising across the programme because of the current Covid-19 crisis mean that current forecast spend in relation to this scheme in 2020-21 is less than anticipated at budget setting 2020-21.

In terms of the overall programme and approved budget provision spanning 2020-21 to 2022-23, the intention is to re-align the budgets in relation to this scheme in the context of the wider new build programme, during this year's budget setting process.

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)

Higgins Partnerships 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.

Higgins Partnerships 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 Dixon Clark Court 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**

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. This includes a communal boiler ready to connect to a district heating system and the installation of solar panels and cycle storage. 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 October 2018. The complete Resident Impact Assessment is attached as appendix 3.

The design will be fully inclusive. The proposal aims to meet the highest standards of accessibility and inclusion so that all potential residents and visitors, regardless of disability, age or gender, can use them safely and easily. Inclusive access is achieved by eliminating barriers physical, attitudinal and procedural, which inhibit the involvement of the whole community, not just disabled people.

6. Reasons for the decision

6.1 The Dixon Clark Court new build scheme has been designed to deliver an appropriate balance between respecting the integrity of the estate on the one hand and providing high quality contemporary design on the other.

6.2 The proposed scheme provides a large communal garden area, comprised of a larger south facing area located along the boundary with the neighbouring school and a quieter area located to the east of the existing tower as shown above.

6.3 The development will therefore deliver a number of benefits that meet the Council's corporate objectives including:

- tackling the housing shortage, by building new affordable homes and in particular new council homes; and
- improving the existing estate by providing associated amenity space, for affordable and private homes; and
- new bicycle parking spaces and improvements to the public realm, including 39sqm of community space; and
- maintaining a healthy tree population will ensure that more carbon is stored than released. Using the timber of felled trees in play, habitat creation and other uses also keeps the carbon on site.

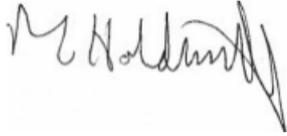
6.4 It is therefore recommended to award a Main Contract (construction contract) to the value of £14,786.851 for the Dixon Clark Court estate new build scheme to Higgins Partnerships.

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.

Appendices:

- Appendix 1 – WCC 2nd Stage Tender Report - **Exempt**
- Appendix 2 – WCC 2nd Stage Tender Report Addendum - **Exempt**
- Appendix 3 - Resident Impact Assessment

Background papers: None**Finance report clearance****Signed by****Corporate Director of Housing****Date:** 16/10/20**Report Author:**

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