

**Key Decision Report of the Corporate Director of Housing**

<b>Officer Key Decision</b>	<b>Date:</b> 16 <sup>th</sup> October 2020	<b>Ward:</b> Finsbury Park
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<b>Delete as appropriate</b>	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Appendices 1 and 2 to this report are exempt and not for publication as they contain the following category of exempt information as specified in Paragraph 96.4, category 3, of Access to Information Procedure Rules, Schedule 12A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 thirty-six new homes, public realm improvements including new landscaping and play facilities, a new flexible use space, a new affordable workspace and associated hard & soft landscaping on the Andover Estate, N7**

**1. Synopsis**

- 1.1 This report seeks agreement to award a JCT Design and Build (2016) contract to the value of £21,985,627 for the Andover New Council Homes scheme to Geoffrey Osborne Holdings Ltd for the design and build construction of 36 new homes for social rent, a new flexible use space, a new affordable workspace and associated estate landscaping and public realm improvements for the Andover Estate, N7.
- 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 Calfordseaden, report attached as exempt Appendix 1, except for the garage conversion pilot as outlined in 4.38.

## 2. Recommendation

- 2.1 To award a JCT Design & Build (2016) Main Contract to the value of £21,985,627 to Geoffrey Osborne Holdings Ltd to undertake the design and build construction of 36 new homes, a new flexible use space, a new affordable workspace and associated estate landscaping and public realm improvements for the Andover Estate.

## 3. Date the decision is to be taken

16<sup>th</sup> October 2020

## 4. Background

### Nature of the Service

- 4.1 The Andover Estate is the Council's largest housing estate, consisting of 1064 homes. The new build sites provide new council homes within the estate, along with refurbishment where possible and landscaping improvements within the estate. The older part of the estate along Andover Road was built in the 1950s and is known as the Old Andover Estate. These buildings are generally five stories in height, redbrick and with pitched roofs. The newer buildings, which make up the majority of the estate, were built in the late 1960s and 1970s and are generally lower rise, though there are three larger pyramid-shaped buildings in the centre of the estate. In the middle of the estate is a recently renovated Central Square with an established row of shops and community centre.
- 4.2 The scheme comprises of a mix of high quality residential accommodation, including family-sized homes, in the form of infill housing and development on underused spaces and garage conversions including:
- garage conversions to affordable workspace on the Corner of Roth Walk and Durham Road; and
  - garage conversion to residential in Corker Walk - subject to a separately procurement process as outlined under *Business Risks* below.
- 4.3 The original Phase 1 of the scheme is shown as Appendix 3. However, because of reasons outlined in 4.17 the revised Phase 1 will comprise:
- a total of 36 new homes across 3 new blocks;
  - a new flexible use space;
  - a new affordable workspace by converting a disused undercroft;
  - associated estate landscaping and public realm improvements.

Residential Blocks	No. of units
Site 2: Block B	10 units
Site 3: Block C & Block C2	10 units & an affordable workspace
Site 4: Block J	16 units
Total	36 units

- 4.4 Overall the scheme will deliver 6 x 1-bed units (14%); 17 x 2-bed units (50%); 13 x 3-bed units (36%), see detailed breakdown below:

Tenure/ Bedsize	1 Bed/2p	2 Bed/4p	2 Bed/3p	3 Bed/4p	3 Bed/6p
No. of homes for social rent	6	16	1	1	12

- 4.5 All the new units are for social rent.
- 4.6 Extensive consultation with local residents has been undertaken since 2014 and a planning application (outline and detailed consent) was submitted for planning approval in November 2017. In May 2020 a further application for Minor Material Amendments to that planning permission was submitted.
- 4.7 The scheme was granted planning approval on the 21 June 2018 under Planning Application reference **P2017/2065/FUL**.

### **Estimated Value**

- 4.8 The original second stage tender price submitted by Osborne's on the 31 January 2019 for the Main D&B Contract was £32,466,234. A value engineering exercise to reduce the indicated cost prompted a critical review of the scheme proposal as a whole, which resulted in the omission of some of the less economic components of the work, attached as exempt Appendix 2. The contract sum was reduced to sum to **£21,985,627**.
- 4.9 The scheme is delivering new council homes with public realm improvements including new landscaping and play facilities, flexible use space, an affordable workspace and is funded through the council's New Build housing budget.

### **Timetable**

- 4.10 Key Officer Decision – September 2020  
Start on Site - Q1 2021  
Completion – Q3 2022

### **Options appraisal - Procurement**

- 4.11 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.

- 4.12 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.

- 4.13 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.

- 4.14 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.
- 4.15 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 £784,114.43 was awarded to Geoffrey Osborne Ltd in July 2018. Their Stage 1 Tender was £18,540,039.81.
- 4.16 The PCSA was extended to 1<sup>st</sup> February 2019 to enable the contractor to complete their Stage 2 Tender when a final price of £32,477,234.07 representing a 75% increase over the Stage 1 Tender.
- 4.17 The Stage 2 Tender was subsequently not considered value for money by the Employer's Agent and the Cost Consultant (Calfordseaden) in May 2019 as detailed in Appendix 1 (Exempt). A value engineering exercise to reduce the indicated cost prompted a critical review of the scheme proposal as a whole, which resulted in the omission of some of the less economic components of the work.
- 4.18 An updated tender of £21,985,627 (exclusive of VAT) for the construction of 36 new council homes was received from Geoffrey Osborne Ltd in July 2020. It is this updated tender submission that forms the subject of this award report.
- 4.19 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.
- 4.20 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**

- 4.21 The New build scheme will provide 100% affordable 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.
- 4.22 In addition to the much needed new homes, the scheme will deliver improved local infrastructure, a new efficient flexible use space and an affordable workspace. It will improve urban layout and community safety, as well landscaping and lighting. The scheme offers over-riding planning benefits, has been well-designed with a consideration and respect for both the existing estate and wider community needs.

- 4.23 All 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 Andover Estate, this includes financial commitments to improve sustainability and offset carbon.
- 4.24 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 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.
- 4.25 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.
- 4.26 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.
- 4.27 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.
- 4.28 There are no TUPE, pension or staffing implications related to the award of this contract to Geoffrey Osborne Holdings Ltd.

### **Evaluation**

- 4.29 The value of the main works contract to be awarded is therefore £21,985,627 (exclusive of the previously awarded PCSA). The estimated contract period is 83 weeks.
- 4.30 The costs increase is mostly driven by the abnormals that have been identified and the form of the buildings proposed and the requirement to provide facilities and improvements to the benefit of the wider Andover Estate community, are constraints that greatly affect the cost of the works. The key abnormals are:
- The development plots are limited to small footprint areas, with exception of Block J, cannot accommodate more than one or two dwellings per floor. The sites are also adjacent or attached to existing buildings and restricted to multi-storey blocks.
  - Some of the features to be constructed as part of the development intentionally provide community benefit and are not specific to the associated building. An example of this is the additional lift included in the Block C costs but benefitting the dwellings in and residents of the adjacent block.
  - There are existing services located on or near the development sites that require diversion. The cost of these diversions has an adverse effect on the cost of the development, distorting the value of the works in comparison with other schemes.

- 4.31 The proposed contract sum is reflective of £5,628,738 savings identified through value engineering exercise with the most significant saving achieved by omitting the less economical blocks and some public realm works
- 4.32 The form of the buildings proposed and the requirement to provide facilities and improvements to the benefit of the wider Andover Estate community are constraints that greatly affect the cost of the works. Benchmark comparison costs do not include all of these features and are consequently dissimilar and not suitable indicators of value.
- 4.33 The Employer's Agent and the Cost Consultant (Calfordseaden), however, are satisfied that the price submitted by Geoffrey Osborne Ltd is reasonable following a lengthy procurement and design development process given the following:
- a significant proportion of the proposed contract sum has been developed under competitive conditions and by default represents value for London Borough of Islington.
  - Geoffrey Osborne Ltd 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.
  - they do not consider that it would be possible to procure the designed scheme (less Block B2) as it stands for less than the sum advised by Geoffrey Osborne Ltd.
- 4.34 Calfordseaden will monitor the costs as the works proceed, verifying the legitimacy of Geoffrey Osborne Ltd's measurements and valuations and have therefore recommended that the council should consider proceeding with Geoffrey Osborne Ltd for this project.
- 4.35 The GLA has also chosen to support the conversion of garage space on the estate as part of match funding made available to the Council's Inclusive Economy Team as part of a wider economic development initiative in the Finsbury Park area. The overall value of the match funding is £1.2m of which approximately £500,000 will be utilised to create a fashion workspace for local businesses who need to grow and require specialist space and equipment to do so.

### **Business Risks**

- 4.36 The proposed Stage 2 Tender price from Osborne's included Block B2 (Refurbishment) based on a maximum provisional sum of £1,600,000.00 for measured works.
- 4.37 However, our appointed Employers Agent and QS Consultants Calfordseaden have reviewed the build-up to the proposed maximum provisional sum. The rates and prices used by Osborne are disproportionately expensive with the result that the total provisional sum of £1,600,000.00 cannot be considered value for London Borough of Islington.
- 4.38 Osborne were challenged about the rates used in their calculation and advised that the pricing was based on feedback from their supply chain and that they were not prepared to make any adjustments. The assertion that Osborne's price will not be reduced to a more meaningful level means our appointed Employers Agent and QS Consultants Calfordseaden cannot recommend that they are awarded the contract for Block B2. Instead, it's recommended the council considers procuring the work through the new Contractor Framework Direct Award route.

- 4.39 Block B2 will remain high risk until VfM can be confirmed through a separate procurement process.
- 4.40 The other main key risks which remain for Islington Council are the following:
- Covid-19 - programme delays
  - BREXIT- supply chain disruption and cot increases
  - Service diversions and disconnections – subject to provisional sums.
  - Sites B & C: Substructure Design (underpinning)
  - Impacts on Local Residents

Further residual risks:

- provisional sums, although now minimal since the removal of Block B2 from Osbornes scope. This will remain a medium risk until all provisional allowances are firmed up.

### **Risk Management**

Whilst the Contractor will be addressing elements of risk and has allowed a risk contingency of 4.5% (2 % insolvency and 2.5% design) which seems reasonable, it is important that the council allows for a separate 5% contingency within the project appraisal/ business plan to cover potential employer risks.

- 4.41 Risks in the ground: The PCSA was used by Geoffrey Osborne Holdings Ltd to undertake investigations (including soil and other site surveys, demolitions and apply for service diversions), to allow for accurate design and construction costs and more programme certainty.
- 4.42 Stopping Up Notice, Build Over Agreements and Services under infill blocks and existing block Investigations either completed or the majority resolved.
- 4.43 Given the exceptional circumstances the UK is facing relating to leaving the European Union (BREXIT) in the next months/years, relevant financial and construction market risks will have to be closely monitored going forward (and extra contingency allowed).
- 4.44 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.
- 4.45 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.
- 4.46 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 36 genuinely affordable social rented homes. See paragraphs 4.1-4.7
2. Estimated value	The estimated value is £21,985,627 See paragraphs 4.8-4.9
3. Timetable	The timetable is outlined in this report. See paragraph 4.10
4. Procurement Process	The outcome of the procurement options appraised are described within this report. See paragraphs 4.11-4.20
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 4.21-4.35
6. Any business risks associated with entering the contract	Business risks are as described in this report  See paragraphs 4.36 – 4.46
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 Geoffrey Osborne Holdings Ltd in the sum of £21.986m.

The report confirms that external QS consultants have assessed the contract price (in respect of the 36 residential unit build + flexible & affordable space + landscaping) as being fair and reasonable.

The Tender Acceptance (stage 3) financial viability assessment for this scheme indicates that the increased contract price creates a net budget pressure of £1.457m.

However, it should be noted that the original budget related to the delivery of a 42 unit scheme & as such whilst the additional cost that needs to be accommodated in budgetary terms is £1.457m, the underlying increase in the cost of this scheme is closer to £3.745m, given that the scheme has reduced by 6 units from 42 to 36.

Having said this, increased resources B.Fwd from 2019-20 mean that this pressure in the sum of £1.457m can be met from 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 £24.612m, this forecast reflects the latest cost of construction & landscaping referred to in this report plus fees & the recommended 5% client contingency.

The scheme will be funded from an estimated; £7.063m of RTB 141 receipts, other net receipts/Non-RTB sales £3.558m & £13.991m 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 53% social rented, however, the open market sale and shared ownership 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 £420k 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.

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)

Geoffrey Osborne Ltd 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.

Geoffrey Osborne Ltd 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 Andover 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 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 September 2017. The complete Resident Impact Assessment is attached as Appendix 4 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.

## 6. **Reasons for the decision**

6.1 Geoffrey Osborne Ltd 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 Geoffrey Osborne Ltd is fair and acceptable.

6.2 It is therefore recommended that a Design & Build construction contract is awarded to Geoffrey Osborne Ltd for the sum of £21,985,627 to construct 36 genuinely affordable social rented homes and provide 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.

### **Appendices**

Appendix 1 – Value Appraisal of Andover Estate Phase 1 (Reduced Scope) - **Exempt**

Appendix 2 – Initial Draft Tender Review – For Discussion - **Exempt**

Appendix 3 – Phase 1 new build site plan

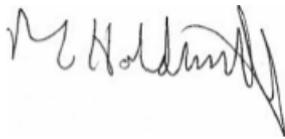
Appendix 4 – Resident Impact Assessment

### **Background papers:**

None

### **Finance report clearance**

#### **Signed by**



**Corporate Director of Housing**

**Date:** 16/10/20

#### **Report Author:**

Andrew Wilson

#### **Tel:**

020 7527 8808

#### **Email:**

[andrew.wilson@islington.gov.uk](mailto:andrew.wilson@islington.gov.uk)

#### **Financial Implications Author:**

Lydia Hajimichael

#### **Tel:**

020 7527 5160

#### **Email:**

[Lydia.Hajimichael@islington.gov.uk](mailto:Lydia.Hajimichael@islington.gov.uk)

#### **Legal Implications Author:**

David Daniels

#### **Tel:**

020 7527 3277

#### **Email:**

[David.Daniels@islington.gov.uk](mailto:David.Daniels@islington.gov.uk)