

Key Decision Report of the Corporate Director of Housing

Officer Key Decision	Date: 21 January 2021	Ward: St. Peters
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Delete as appropriate	Exempt	Non-exempt
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The appendix to this report is exempt and not for publication**SUBJECT: Contract Award for the demolition of 12 garages and the construction of a block of 11 supported housing units on the site at Windsor Street, N1 8QF****1. Synopsis**

- 1.1 This report seeks approval to award the contract to build a supported housing scheme for 11 residents with learning disabilities on the site at Windsor Street.
- 1.2 The contract is for the demolition of the 12 garages occupying part of the site and for the construction of a supported living scheme comprising 11 units of accommodation. The proposal also includes communal kitchen/living/dining facilities, staff offices, a basement laundry and plant room, and an accessible bathroom facility as well as a wheelchair transfer room. Associated landscaping including courtyard garden areas, refuse and cycle storage provision are also proposed.

2. Recommendation

- 2.1 To approve the award of a design and build (D&B) construction contract to Roof Ltd for the sum of £5, 077,852.95 as outlined in this report to construct the 11 unit supported housing scheme.

3. Date the decision is to be taken

21st January 2021.

4. Background

Nature of the Service

- 4.1 The purpose of this report is to appoint a suitably qualified main contractor to carry out the construction of the supported housing scheme. The scheme comprises a ground floor unit based on a "pod" model where 4 residents will have their own bedroom and bathing facilities but will share a communal kitchen, living and dining room. These residents are likely to be more vulnerable and have high support needs and may therefore be less independent; they are likely to be wheelchair users. All the areas in this pod will be wheelchair accessible and ceiling hoists will provide additional options to allow the residents to move from one place to another.
- 4.2 The upper two floors of the block will provide more independent self-contained accommodation for 7 residents whose learning disabilities do not require such intensive support. The building has been designed to offer the maximum flexibility for the purposes of providing an environment where residents can feel independent on the one hand and be secure in the knowledge that if their needs change they can access additional support, on site, without having to move home. In addition to the 11 units there will be two communal lounges, a laundry, staff sleep-in provision, an assisted bathroom as well as office space. Outside the garden area will be sensitive to the needs of the client group and will support their independence and choice. All the units will be offered for genuinely affordable social housing rent and all residents will have their own tenancy agreements.
- 4.3 The scheme received planning permission in May 2018. Licensees of the garages in occupation at the time were found alternative provision on the estate where this was requested. Similarly, residents renting a car parking space were offered alternative parking provision. Other business users of the car parking spaces were advised that they would have to vacate the site.
- 4.4 During the summer of 2018 the single stage design and build contract for the construction work was tendered via the framework that existed at the time; this framework was due to expire later that year. The comparatively low value of the contract was such that it only appealed to a small number of contractors on that framework due to the value of the lots. The outcome was that only one submission was received. The value for money report provided by the quantity surveyor employed by the council did not consider the tender value for money. The bid was more than £1,000,000 higher than the estimate provided by the cost consultant, at just over £5,600,000. Nonetheless, it was agreed that we should work with the contractor to consider value engineering the submission to see if the contract value could be negotiated down. While there were a number of useful suggestions proposed by the contractor to make these savings, some of which were taken on board for the second tender process, many elements were either integral to the principles of the scheme or could not be satisfactorily reconfigured within the physical constraints of the site and meet the needs of the commissioner. The resulting savings proposed were insufficient to reduce the costs by any significant amount and the submission was therefore formally rejected.
- 4.5 During the course of the negotiations with the former contractor the new contractors' framework was in development and nearing its final stages. The decision was made that it would be prudent to wait until the new framework was available as there was a good chance that new contractors would provide a greater number of competitive bids and the new framework was an improvement on the last due to the good practice and learning embedded in the document. The Framework became available during the summer of 2020.

Other procurement options such as an open market competitive tender were discussed. However, it was considered that proposing an alternative procurement strategy and the length of time it would take to go through the process of procuring a contract outside a framework would not be worthwhile particularly as the new framework was imminent.

Estimated Value

The development is to be funded through the council's new build budget.

4.6

The value of the contract is £5,077,852.95 with an estimated contract period of 91 weeks.

4.7

4.8 The cost consultant's report of November 2019 provided an anticipated build cost of £4,705,018.14 with a contract period of 105 weeks. It was decided and agreed not to adjust the Cost Plan for inflation as at the time of the tender relevant inflation indices were forecasting a decline in tender prices. It was felt that this would not be reflective of reality due to the Covid-19 pandemic which had only recently become prevalent. Combined with Brexit, these factors have created much uncertainty within the current economy and so it was therefore anticipated that this would impact the market within which the scheme was being tendered. As the impact of these factors was too current to forecast the decision was made to leave the Cost Plan unadjusted. The submission made by Roof Ltd is 6% higher than the estimate provided by the cost consultant. Although the initial figure was lower than this estimate close scrutiny of the submissions required a series of clarifications between the bidders and the cost consultant before a satisfactory position was achieved.

4.9

The council's cost consultant Baily Garner, has scrutinised all the bids and sought clarifications on a number of points in the bids as well as checking for accuracy in the figures provided.

4.10

The cost consultant is satisfied that the price submitted by Roof Ltd is reasonable given the following:

- A comparison of the build rate per square metre of £4,345 is high when compared with 7 similar schemes. The consultant believes that is reflective of the uncertainty in the market, the level of risk of the design and the particularly challenging constraints of the site
- All requests for information provided satisfactory clarification/explanation
- Checks on costs such as design and fees were as expected. While overheads and profits were not separately identified in the submission it was confirmed by the contractor that this was included within their rates. However Roof did state that any variations would be charged at 8% overhead and profit. This is broadly in line with expectation.
- The Lot in which the contract was tendered was for projects under £5M. Three of the four bids received were under £5M. However further clarifications resulted in an increase in cost taking the lowest bidder to just over the Lot 1 limit but this in turn has resulted in a more robust contract sum.

4.11

Baily Garner 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.

4.12

The contractor was selected on the basis of the Most Economically Advantageous Tender (MEAT) in accordance with the Public Contracts Regulations. MEAT for this contract was on the basis of 70% cost and 30% quality. The 30% quality was based on the assessment of 5

questions relating to the project posed in the ITT document. The carefully prepared qualitative assessment tailored to meet the very specific circumstances of the project helped to achieve the “best fit” contractor for the project. Please see Appendix 1.

The full breakdown of the cost/quality award criteria is:

Tender Award Criteria	TOTAL
Cost	70%
Quality – made up of	30%
1. Understanding of the needs of the client group and provide at least 2 examples of similar projects	15%
2. Experience of 3 schemes where the contractor dealt with contentious issues raised by local residents providing details of processes and measures to deal effectively with complaints	20%
3. Health and safety risks and dealing with basement construction	25%
3. Construction programme and ensuring deliverability on time	15%
4.Site constraints of the project	25%
Total	100%

4.13 **Timetable**

- Key Officer Decision – January 2021
- Start on site – March 2021
- Completion – December 2022

Procurement Process

4.14 Roof Ltd are a framework contractor in Lot 1 of the New Build Framework. Under the Framework Agreement a new build works contract may be awarded to a framework contractor either by undertaking a mini competition or by direct selection (a call off). Roof Ltd were selected through a mini competition where 4 contractors in that lot submitted a bid. The outcome of the evaluation of the tenders received is summarised in exempt Appendix 1.

4.15 Roof Ltd can be 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.

Key Considerations

4.16 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 Roof will allow for 1 x apprentice 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.

- 4.17 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.
- 4.18 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.
- 4.19 The new homes will be built with the needs of the user as the focal point. The scheme will target a BREEAM rating of Excellent and the pre-assessment has demonstrated that this will be achievable. Thermal comfort for the residents has been reviewed and an overheating analysis has been undertaken and measures put in place to reduce this risk, learning the lessons from previous supported housing schemes. The building will also incorporate user-friendly design of building systems and energy efficiency equipment. The scheme has been developed to promote the independence of the residents, flexibility of space, inside and outside, and to afford as much privacy and respect for both the residents living in the block as well as those living in the neighbouring homes.

Business Risks

- 4.20 This is the second procurement exercise undertaken to appoint a contractor for this project, with the initial exercise taking place in 2018. While the contract value is higher than the estimate provided by the cost consultant they are satisfied that the quality of the bid reflects the value for money. The time it has taken to appoint a contractor on this project has been considerable. Time spent negotiating with the first contractor and the availability of the new framework have contributed to the project's programme risks as the planning permission expires in May 2021. While some consideration was given to achieving planning implementation through a demolition contract the availability of the framework and appointment of the main contractor on balance provided the most efficient route to achieve this. The delays mentioned above have also resulted in increased costs of delivering this small but much anticipated scheme.
- 4.21 The current pandemic situation brings with it its own risks in terms of its potential to impact the programme, both in terms of labour and the supply chain. While this is a more known quantity the impact of Brexit is less known. Further delays in appointing a contractor risks further cost increases reflecting the uncertainty of the exceptional political and economic circumstances the UK faces in relation to leaving the EU in at the end of the year. Changes in the financial and construction market will need to be closely monitored.
- 4.22 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 See paragraphs 4.1-4.5
2 Estimated value	The estimated value is £5,077,852.95. See paragraphs 4.6-4.12
3 Timetable	The timetable is outlined in this report See paragraph 4.13
4 Procurement Process	Social economic, environmental considerations, equality, diversity and inclusion form part of the contractor's submission. See paragraphs 4.14-4.15
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 4.16-4.19
6 Any business risks associated with entering the contract	Business risks are as described in this report See paragraphs 4.20-4.22
7 Any other relevant financial, legal or other considerations.	See paragraphs 5.1- 5.4

5. Implications

5.1 Financial implications

The Windsor St construction cost and fees budget (proposed as part of the 2021-22 budget setting process) totals £5.187m.

The recommended contractor's (Rooff Ltd) price is £5.078m adding in fees results in a total scheme cost of £5.702m.

This therefore results in a budget pressure (net of additional RTB 141 receipts £155kCR) of **£360k.**

This budget pressure can be accommodated within the wider new build programme.

In terms of VfM the independent employers' agent has confirmed that this contract price represents VfM reflecting the uncertain market conditions, the premium associated with the level of design risk & the particularly complex/challenging site constraints.

The report indicates (3.12) that we have complied with the necessary procurement regulations and that the recommended contract award is the Most Economically Advantageous Tender.

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)

Rooff Ltd was appointed as a Framework Contractor on the council's new construction framework following a competitive tendering exercise in accordance with EU Procurement Legislation. Under the LBI construction framework, a new build works contract may be awarded to a Framework Contractor following a mini competition subject to a value for money assessment.

Rooff Ltd submitted the highest scoring tender through a mini-competition between Lot 1 Contractors appointed to the Framework. As the successful Stage 1 contractor, the contractor may be awarded a build contract for the Windsor Street new build housing 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 demolition of the existing garages and the construction of the new supported housing will have several environmental implications. These include the materials used for the new building, energy used in the demolition and construction process, the generation of construction waste (including asbestos in the garages), vehicular movements for the removal of waste, delivery of materials and commuting for construction workers, and potential nuisance issues such as noise and dust, particularly as the site is located on a very narrow street surrounded by both commercial premises and residential council estates and backs onto a series of private gardens. 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.

The new building will also have a long-term impact on the environment, particularly in terms of its use of energy (both electricity and gas) and water. Electricity use will be minimised by on-site generation from solar panel and the use of low energy LED lighting. Biodiversity will

be enhanced through a green roof, while cycle storage facilities will also be provided. The development will achieve a BREEAM rating of 'Excellent'.

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. Vibrations during groundworks, particularly in relation to the excavation work required for the basement construction will need to be closely monitored. Particular attention will be required in terms of health and safety, site set up and the access and site delivery arrangements. The site itself is very constrained and is located on a very narrow street surrounded by both commercial premises and residential council estates. The site also backs onto a series of private gardens. Consideration will need to be given to all of this and in addition any further measures imposed by the government in the near future on issues such as working from home or schools closures when there may be far more people at home.

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 (RIA) was completed in September 2019 (attached as Appendix 2) which identified that there would be minimal negative impacts as currently there are only garages and a car park on the site. Council tenants have been offered alternative provision where requested. The new scheme will provide new homes for people with learning disabilities with on-site support and facilities that will promote independence and choice. There is insufficient housing in the borough to meet the demand for this client group, some of whom are placed outside the borough as a result. All of the units will be wheelchair accessible and 6 of the 11 homes will be wheelchair adapted.

6. Reason for recommendations

- 6.1 Roof Ltd are one of the contractors appointed to Lot 1 of the New Build Contractor Framework 2020-24. 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 comparable supported housing schemes and the wider construction market in London, the contract price submitted by Roof Ltd is fair and acceptable.
- 6.2 Our employer's agent (EA) and QS believe that given the complexity of the scheme, the quality of the submission and volatile nature of the market given the current situation, there is benefit in proceeding with the Roof Ltd tender submission and that therefore, the contract price provides relative VFM for the council.

7. Record of the decision

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

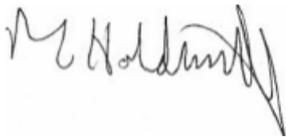
Appendices

- Appendix 1 – Windsor Street Value for Money report – compiled by the cost consultant, Baily Garner - Exempt
- Appendix 2 - Resident Impact Assessment

Background papers: None

Final report clearance:

Signed by:



Corporate Director of Housing

Date: 21/1/21

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