

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

<b>Officer Key Decision</b>	<b>Date: 28 September 2021</b>	<b>Ward(s):</b> Mildway
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<b>Delete as appropriate</b>	Exempt	Non-exempt
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**APPENDICES A, B, C and D TO THIS REPORT ARE EXEMPT and NOT FOR PUBLICATION** as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)".



**SUBJECT: AWARD OF A MAIN CONTRACT FOR THE CONSTRUCTION OF THIRTY – NINE NEW HOMES, ASSOCIATED ESTATE IMPROVEMENTS AND LANDSCAPING ON HATHERSAGE AND BESANT COURT ESTATE**

**1. Synopsis**

- 1.1 This report seeks agreement to award a JCT Design & Build (2016) Main Contract (construction contract) to the value of £20,399,033.87 for the Hathersage and Besant Estates new build scheme to Higgins Construction Ltd for the design and build delivery of 39 new homes; estate landscaping improvements; improvements to the Hathersage block and communal areas; provision of a block housing new cycling storage and mobility scooter parking for Hathersage; and reconfigured new entrance for Besant Tower.
- 1.2 A mini competition had commenced in accordance with the New Build Contractor Framework 2014-18 and policies and procedures adopted by the Council. With the PCSA signed on 12 October 2020.
- 1.3 The submitted tender for the Stage 2 construction works has been assessed as fair and reasonable by our appointed Employers Agent and QS Consultants Baily Garner (BG) and is attached as Appendix A.

## **2. Recommendation**

- 2.1 To award a JCT Design & Build (2016) Main Contract to the value of £20,399,037.87 for the Hathersage and Besant Estates new build scheme to Higgins Construction Ltd for the design and build delivery of 39 new homes; estate landscaping improvements; improvements to the Hathersage block communal areas; provision of a block housing new cycling storage and mobility scooter parking for Hathersage; new refuse store block for Besant Court and reconfigured new entrance for Besant Tower.

## **3. Date the decision is to be taken:**

28 September 2021

## **4. Background**

### **Nature of the scheme**

- 4.1 Hathersage and Besant Estate new build scheme was granted planning consent on the 24 January 2019 under Planning Application Reference P2018/1970/FUL and was tendered via a 2-stage JCT Design & Build Contract, calling off the Council's New Build Contractor Framework which was procured through an EU-compliant process in 2014-2018.
- 4.2 Planning granted in 2019 made provision for the construction of 45 new dwelling units with associated amenity space for affordable and private homes, provided in seven new blocks ranging from 2 to 6 storeys, bicycle parking spaces, 3,920sqm of improvements to the public realm, and the provision of 293sqm of flexible Use Class D1 / B1.
- 4.3 Going forward, the inclusion of commercial units on Midway Park, providing 7 new dwellings in Block K, has been removed from the contract due to the prohibitive cost of acquiring the 2 commercial units on Midway Park. This is being regularised with the Local Planning Authority. Therefore, the new build scheme now consists of 39 new homes in seven blocks, three blocks to the rear of Hathersage Court and in the centre of the estate and four new blocks to the west and rear of Besant Tower and Court. A new block to the west of Hathersage Court would still provide new cycle parking for the existing residents of Hathersage Court (spaces for 39 cycles), as well as parking for 2 accessible cycle storage and 2 spaces for mobility scooters storage. The gross floor area of all new build is 4,482sqm.
- 4.4 The dwelling mix comprises 13 x 1B2P units, 24 x 2B4P, 3 x 3B5P; and 1 x 3B6P, including no. 5 wheelchair units. Of the 39 new homes, 22 will be for Social Rent (SR) and 17 will be for outright market sale (OMS) to fund the scheme. This provides new homes for 141 new residents overall.
- 4.5 The scheme also includes refurbishment and improvements to Hathersage Court consist of new entrance, new bin store, resident's post boxes and storage, totalling 79sqm. Also, for the residents of Hathersage Court a new cycle store 65sqm would be provided.

- 4.6 Improvements to Besant Tower will result in a new entrance to the tower by the removal of two ground floor residential units, currently used for temporary housing and reconfiguration to provide new bin store, totalling 78sqm. A small refuse store, 11sqm, would be provided for residents of Besant Court.
- 4.7 A total of 3,920sqm of public realms areas will be improvement consisting of 2,260sqm communal areas; 1,200sqm of existing areas and provision of 460sqm for private gardens. The scheme would make provision for 5 community gardens.
- 4.8 The area of the current sunken play area will see new residential block (Block B) and a new amenity space, Central Square on the former games area. The sub-station will be relocated from its current position within a structure and the end of the sunken play area to a more accessible location close to an entrance of Besant Estate.
- 4.9 The Estate car parking areas (currently no. 42 spaces) would be reconfigured to provide no. 35 spaces, including 11 disable spaces.

### **Estimated Value of the scheme**

- 4.10 The new homes and ancillary improvements planned for the Hathersage and Besant estates are being funded through the Council's New Build housing budget and GLA funding; Ring Fenced Right to Buy.
- 4.11 Higgins second stage tender price submitted by Higgins Partnership for Main D&B Contract is £20,399,033.87 with an estimated contract period of 113 weeks. As well as the potential for £161,500 VE savings, Officers are continuing to interrogate to adjust the scheme and have identified potential for a further c. £500.000 efficiencies with Higgins. Further details of the tender and scheme analysis is presented in Appendix B.

### **Timetable**

- 4.12 Higgins programme is attached as Appendix C. This has been updated to include the planned utility works and asbestos investigation works, commencing ahead of the start on site date 15 November 2021. Practical completion is estimated on 22 January 2024.
- 4.13 Higgins's construction duration has increased from 101 weeks in their first stage tender submission to 113 weeks in their second stage tender. Higgins have advised that this additional time is associated with the substation relocation.

### **Options appraisal**

- 4.14 In light of the value of the contract sum for the proposed new development at Hathersage and Besant, the following options were considered:
1. Go back to the market
  2. Revise the scheme, resulting in new planning application
  3. Not to go ahead with the scheme
  4. Accept Higgins Proposal
- 4.15 It is considered that the most advantageous option would be to accept Higgins Proposal as it would:

- Allows works to proceed.
- Offers value to Islington in terms of new homes and non-new homes improvements.
- Minimises risk associated with planning consent expiry.
- Protects the work carried out to gain planning approval on a complicated site.
- Higgins have worked to develop the scheme including risk identification / mitigation including bus stop relocation, trees and value engineering efforts throughout the PCSA.
- Higgins have capped inflation at 4.5% despite Contractors applying 10% inflation, reflective of market conditions.

The disadvantages of this option:

- 4.16
- The Council is paying a premium due to site constraints, design inefficiencies etc.
  - Higgins have advised that there may be additional cost if they are unable to meet current programme.
  - Impact on the Scheme and Programme budget of delays  
Stage 4 design require work to meet LBI requirements (currently being resolved)

### **Key considerations**

- 4.17
- The Hathersage and Besant New Homes development is an ambitious scheme with a vision to enhance and improve neglected and underused space between existing Council owned buildings at Hathersage Court and Besant Tower and Court whilst providing good quality new housing and uplift to the existing buildings. The scheme has been developed over a number of years, a key milestone being the preparation of the planning application in 2016/ 2017. The final form of the scheme (granted planning approval in January 2019) was informed by maximising the numbers of new homes, setting a high space standards as well as uplift to the existing estates. This has contributed to the cost of this scheme.

- 4.18
- The new build scheme involves over-riding planning benefits. Moreover, the proposal has been 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.

- 4.19
- The proposal would bring forward, 22 new Council rented homes and 17 homes for sale. When measured by the number of habitable rooms provided by the new build scheme, it provides 115 habitable rooms. All homes are above London Housing Design Guide Standards, averaging 8sqm above the LHDG (total 275sqm). The new homes in seven blocks measure 4,148sqm to deliver 39 units for Hathersage and Besant.

- 4.20
- 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. Design changes in the Section 73 applications will ensure the new scheme is compliant with new Building Regulations.

- 4.21
- The scheme reprovided green space and landscape strategy for both Hathersage and Besant Estates. It also provides new entrances to Hathersage Court and Besant Tower as well as new cycle, disability scooter and disable cycle store and a new bin store for Besant Court. The scheme includes:
- 144sqm for refurbishment to Hathersage Court communal areas, including 65 for new cycle store;
  - 89sqm for Besant new entrance area and refuse store.
  - 3,920sqm for external area, including no. 5 community gardens.

4.22 All new build development is expected to bring further social benefits, including CIL and S106 contributions towards improvements in the vicinity of and environmental improvements to the public realm within and around the estate. For the Hathersage and Besant new build scheme, this includes the extensive refurbishment of the ground floor communal areas of both Hathersage Court and Besant Tower. Financial commitments to improve accessible transport, to offset carbon and tree planting have also been made. The scheme would result in 47 new semi mature trees being planted.

4.23 All New Homes scheme are designed in accordance with the Council's detailed planning requirements and in accordance with the employer's requirements to address the social and environmental sustainability of the development proposals. The contractor is an exemplar under the Code of Construction Practice and will provide two construction trade apprentices, resident in the Borough, to be employed at the development during the two-year construction period.

4.24 The contractor is also obliged to produce a community liaison strategy and ensure compliance with the Code of Local Procurement.

4.25 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.

4.26 There are no TUPE, pension or staffing implications related to the award of this contract to Higgins Construction Ltd.

## **Evaluation**

4.27 The submitted tender for the Stage 2 construction works has been assessed as fair and reasonable by our appointed Employers Agent and QS Consultants Baily Garner

4.28 A mini competition commenced in accordance with the New Build Contractor Framework 2014-18 (now expired) and policies and procedures adopted by the Council.

4.29 As noted above, the most advantageous option would be to accept Higgins Proposal as it would:

- Allows works to proceed.
- Minimises risk associated with planning consent expiry.
- Protects the work carried out to gain planning approval on a complicated site.
- Offers value to Islington in terms of new homes and non-new homes improvements.
- Higgins have worked to develop the scheme including risk identification / mitigation including bus stop relocation, trees, and value engineering efforts throughout the PCSA.
- Higgins have capped inflation at 4.5% despite Contractors applying 10% inflation, reflective of market conditions.

4.30 The disadvantages of this option:

- The Council is paying a premium due to site constraints, design inefficiencies etc.

- Higgins have advised that there may be additional cost if they are unable to meet current programme.
- Impact on the Scheme and Programme budget of delays
- Stage 4 design require work to meet LBI requirements (currently being resolved)

## Business Risks

4.31 The Hathersage and Besant new build scheme has faced the following challenges:

- No. 39 flats are spread across seven buildings spread across a large site footprint;
- Construction of three blocks for ancillary uses for the estate
- Three existing blocks located within 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;
- 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. Coordinated, timed deliveries are needed; and
- The busy roads, including Mildmay Park, Newington Green and Newington Green Road will require coordination and safety measures.

4.32 The residual risks that remain in contract therefore pertain to:

- Provisional sums, although these sums are reported by BG as robust
- Section 73 amendment to the planning application.
- Ground contamination and Asbestos.
- Utilities works and sub – station relocation at start of works.
- Refurbishment works to Hathersage Court and Besant Court entrance areas
- Party wall matters.

4.33 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.

4.34 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 paragraph (2.1)
2. Contract value	The contract value is £20,399,033.87.

	See Paragraph (2.1)
3. Timetable	The timetable is outlined in this report.  See Paragraph (4.12)
4. Options appraisal for tender procedure including consideration of collaboration opportunities	A mini-competition was commenced in accordance with the New Build Contractor Framework 2014-18 (now expired) and policies and procedures adopted by the Council.  See Paragraph (4.14)
5. Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	Social, economic, environmental considerations, equality, diversity and inclusion forms part of the contractor's submission.  See Key Considerations section
6. Any business risk associated with entering the contract	The submitted tender for the Stage 2 construction works has been assessed as fair and reasonable by our appointed Employers Agent and QS Consultants Baily Garner (BG) and is attached as Appendix A.  See paragraphs (4.31 – 4.32)
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 the contract price tendered in the sum of £20.4m has been professionally & independently assessed as representing value for money.

However, the award of this contract in the sum of £20.4m will create a scheme total budget pressure of around £900k. In terms of budget provision any cost pressure arising in 2021-22 can be contained within the overall new build programme's total budget provision, future years' budgets for this scheme will be amended as part of the 2022-23 budget setting process. In terms of funding this cost pressure will be met from HRA reserves.

### 5.2 Legal Implications:

Under Section 9 of the Housing Act 1985 the Council has the power to provide housing accommodation by building houses on land acquired for that purpose or by converting buildings into houses. The Corporate Director has authority to award contracts under a framework agreement without limit where the capital spend is part of the approved capital programme (paragraph 8.8 of Part 3 and paragraph 1 of Appendix 3 to the Constitution).

Higgins Construction Ltd was appointed as a Framework Contractor for the New Build Programme following a competitive tendering exercise in accordance with former EU Procurement Legislation (now adopted into UK Law).

Higgins Construction Ltd was subsequently invited to tender (via a mini competition) for the Stage 1 and Stage 2 Contract works. Whilst the expression of interest for the mini tender was issued to all bidders during the lifetime of the 4 year framework term, it has transpired that the actual award of the contract took place after the end of the framework term. Legal advice has been given to the client in light of this and, whilst the client has been made aware that there is a risk of procurement challenge, is of the view that this risk is relatively low considering that the initial expression of interest was issued during the framework term. It should also be noted that there is now a new 2020 Framework Agreement in place which Higgins Construction Ltd are also framework contractors on.

This report seeks approval to award the Stage 2 main construction works as set out in this report. Higgins Construction Ltd may be awarded the Stage 2 build contract subject to the council being satisfied that the price represents value for money and is otherwise acceptable to the council in light of the risks identified above.

In considering the recommendation in this report, the Corporate Director of Housing should have regard to the information set out in the exempt **Appendices A-D** 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. 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 September 2021. The complete Resident Impact Assessment is available at Appendix E.

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.

The ultimate aim of inclusive access is that the design and layout of the building should enable everyone to be able to enter the building, use the facilities and leave safely, independently and with ease.

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

6.1 The Hathersage and Besant 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. The new homes exceed London Housing Design Guide size.

6.2 The proposed scheme provides five communal garden areas across the Hathersage and Besant Estate as well as public realm improvements. As well as refurbishment and improvements for Hathersage Court and, Besant Court estates.

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
- Improvements to the public realm,
- Improvements to existing estate buildings.

6.4 It is therefore recommended to award a Main Contract (construction contract) to the value of £20,399,033.87 for the Hathersage and Besant new build scheme to Higgins Construction Ltd.

## **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.

### **Signed by:**

Corporate Director of Housing and Neighbourhoods

Date:

## **Appendices:**

Appendix A – Hathersage VFM Statement Rev. D 18 08 2021 – **Exempt**  
Appendix B – Tender and Scheme Analysis – **Exempt**  
Appendix C – Construction Programme (Rev 16 25 Aug 2021) – **Exempt**  
Appendix D – Options Workshop Summary – **Exempt**  
Appendix E – Residents Impact Assessment, 2021.

**Background papers:** None

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