

Decision of:	Corporate Director of Community Wealth Building
Date of Decision:	4 October 2024
Publication:	Part Exempt
Council Priority:	Greener, Healthier Islington
Wards:	Junction
Responsible Officer:	Martijn Cooijmans
Report No.	1028456

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## Subject: Contract Award for Decarbonisation Works at Archway Leisure Centre

### 1. Recommendations

- 1.1. To approve the award of a contract to Vital Energi Utilities Ltd. for a period of up to 9 months tentatively from October 2024 to June 2025, at a cost of £2,071,581.52.

### 2. Report summary

- 2.1. The purpose of this report is to provide an update on the Archway Leisure Centre decarbonisation project and recommends the award of the second stage main contract for decarbonisation works at the Archway Leisure Centre to Vital Energi Utilities Limited. The contract will form phase two of a two stage design and build process.

### 3. Details of the proposal

- 3.1. In 2022, the Council commissioned feasibility studies at Archway Leisure Centre, which included identifying the most suitable options and costs for energy efficiency measures and low carbon heating works. The findings from the study suggested that the measures outlined in Paragraph 3.2 will result in a significant reduction in CO<sub>2</sub> emissions as well as reduced energy costs, contributing to Council priorities. The studies allowed the Council to successfully apply for Public Sector Decarbonisation Scheme (PSDS) 3b grant funding. The PSDS3b grant funding is managed by Salix Finance as they administer the funds on behalf of the Department for Energy Security and Net Zero (DESNZ).

- 3.2. The following works will be carried out at Archway Leisure Centre as part of this project:
- Replacing the gas boilers with air source heat pump (ASHP)
  - Installation of solar panels
  - Heating and cooling system improvements
  - Building Management Systems (BMS) optimisation
- 3.3. As outlined in the published procurement strategy key decision report in July 2023, the Fusion 21 Decarbonisation framework agreement Lot 2 - Decarbonisation of Public & Education Buildings was used to appoint a design and build contractor to carry out the work packages. The procurement was conducted in October 2023 and the route was via a two-stage design and build contract.
- 3.4. Following the procurement exercise, Vital Energi Utilities Ltd was appointed for the design development of the decarbonisation works in Archway Leisure Centre under a Pre-Construction Services Agreement (PCSA), the first stage of the contract. This first stage was a limited appointment that enabled the contractor to start working with the Council and other stakeholders to develop the design up to RIBA (Royal Institute of British Architects) Stage 4.
- 3.5. The PCSA stage has now been completed resulting in the delivery of the Contractor's Proposal by Vital Energi Utilities Ltd which include the detailed design – drawings and specifications, proposed programme information, construction/installation cost, health and safety information, and risk assessment.
- 3.6. This first stage appointment did not obligate the council to proceed to the second stage and the tender documents clearly specified that the contractor would be subject to a separate review of their final design and price prior to any award of the second stage works contract. The second stage is subject to a separate contract under JCT Design and Build terms and conditions with council amendments.
- 3.7. In parallel to the PCSA, an Enabling Works Agreement (EWA) was agreed between the Council and Vital Energi Utilities Ltd. This early works agreement covered early orders of equipment (Air Source Heat Pump and Solar PV panels), water treatment works and the removal of the three existing decommissioned Combined Heat Power (CHP) units from the leisure centre's plant room. These works were required to be undertaken prior to entering into the works main contract in order to meet the critical path of the funding drawdown and main works programme for the decarbonisation of the leisure centre. The scope of works for the EWA proposed by the contractor were outlined based on the completion of RIBA Stage 3 design.
- 3.8. The duration of the contract is 9 months, which is tentative to start in October 2024 to June 2025. This is inclusive of the planning application period that will be done immediately after mobilisation of the contract.
- 3.9. The PCSA has concluded with a tender price submitted by Vital Energi Utilities Ltd on 29 August 2024 in the sum of £2,071,581.52 for the full construction/installation

cost. Upon review by the externally appointed cost consultant and technical consultant, it is deemed that the cost and design submitted by Vital Energi Utilities Ltd. provides value for money for the Council. Further findings from the review is outlined in Section 7. Therefore, it is recommended to award the second stage design and build contract to Vital Energi Utilities Ltd.

## 4. Other options considered and the reasons for recommending this proposal

4.1. Given the approvals previously given and the work completed to date, the Council is presented with the following options:

- Option 1: Do nothing.
- Option 2: To re-tender the works in the hope of achieving a lower price.
- Option 3: To continue to deliver the project at the cost now proposed by Vital Energi Utilities Ltd.

4.2. In the event that the Council choose to do nothing, the Council will forfeit the remaining PSDS grant funding. The grant funding spent prior to this point will be considered as spent in good faith and claw back of money by Salix Finance will not apply. However, further discussions will need to be made with Salix Finance in regards to the order of equipment that was placed under the EWA. This will also damage the Council's reputation for backing out of the decarbonisation project that contributes towards the Net Zero 2030 goals. For these reasons, this option is not recommended.

4.3. In the event that the Council choose to re-tender the works, it would be able to use the existing detailed design provided by Vital Energi Utilities Ltd but a re-tendering exercise would be expected to add at least three to four months to the existing programme. In addition to this, the Council need to consider the following:

- The remaining £1,579,950 of the PSDS grant funding for FY24/25 will need to be withdrawn by 31 March 2025. A re-tender exercise will delay the programme significantly and it may result in losing part of the remaining PSDS grant funding of £1,579,950.
- Reputational damage to the Council;
- The lack of guarantee that the re-tender would ultimately provide a cost saving to the Council;
- The potential that, given their knowledge of the project, Vital Energi Utilities Ltd might still win the re-tender at a higher price subject to market conditions.
- A new appointed contractor will not be as familiar with the design by Vital Energi. They will also take longer mobilisation period due to this, hence causing further delay to the project programme.

- 4.4. On the basis of the above, it is proposed that the Council accept the advice of its professional advisors and proceed to award the full construction contract to Vital Energi Utilities Ltd at an anticipated value of £2,071,581.52.

## 5. Key impacts and risks of the proposal

- 5.1. As per the PSDS grant conditions, all of the PSDS measures are to be completed by 31 March 2025. The programme of works by Vital Energi Utilities Ltd. indicate that the works will complete by June 2025, which is beyond 31 March 2025. As part of the standard process outlined by Salix Finance, a delayed completion request will need to be submitted for any projects that will be completed beyond the grant end date (31 March 2025). Early discussion has been made with Salix Finance so they are aware that the project is expected to complete by June 2025. This delayed completion request will be submitted following the approval of this contract award report.
- 5.2. As per the PSDS grant conditions, even with delayed completion request agreed with Salix Finance, the amount of the remaining PSDS grant funding awarded for this project (£1,579,950) must still be drawn down by 31 March 2025. Up to September 2024, an amount of £92,926.83 of the PSDS grant funding has been withdrawn based on the spending for the PCSA contract, EWA contract and external consultancy services and a further remaining of £161,521.40 is expected to be incurred for these items between October 2024 to grant funding end date. With the submitted project programme from Vital Energi Utilities Ltd., the installation of the measures in Paragraph 3.2 are expected to complete by 31 March 2025 and estimated total spend for the design and build contract up to this date will be £1,700,713.04. This brings an estimated spend total of £1,955,161.27 from April 2024 to March 2025 which will be eligible to be withdrawn from the PSDS grant funding. Refer to Appendix – Profile Spend for further breakdown of the profile spend up to 31 March 2024. This information is exempt as it is regarded as commercially sensitive.
- 5.3. The remaining works beyond the deadline will include the UK Power Networks (UKPN) Distribution Network Operator (DNO) electrical capacity upgrade, testing and commissioning and finally the completion and handover of site which is an estimated total of £370,868.48. This amount can be covered with the council match funding. The spend of PSDS grant funding will also be prioritised over the council match funding to ensure that the full amount of the PSDS grant funding will be withdrawn before the deadline.
- 5.4. Should the project programme be further delayed, there is a risk that the Council will be unable to spend the full amount of the funding, therefore losing a part of the funding source for this project. The Council would then need to decide whether to continue the project funded by its own resources or cancel the project altogether. Robust contract management measures have been planned by the Energy

Services team overseeing the project progress and will be implemented to reduce the risk of delay to the project and maximising the PSDS funding drawdown before the end date.

- 5.5. There is a risk that Vital Energi does not perform the works to the required standard. Robust contract management measures have been planned by the Energy Services team overseeing the project and will be implemented to reduce the risk of delay to the project. Quality assurance processes have been planned by the Energy Services team to ensure the work of the contractor is regularly checked and any concerns will be raised promptly with the contractor. The council's externally appointed technical consultants and contract administrator will also be playing their role for quality assurance of the contractor's work quality and performance.
- 5.6. There is a risk in carrying out the works in buildings while they are in use and any disruption and health and safety risk to users of the leisure centre. Consultation and site visits to the leisure centre with Greenwich Leisure Limited (GLL), the facilities management premises managers were held throughout the design development process to discuss the project in detail as well as plan building use and assess possible disruptions. In addition, Vital Energi has been required to carry out proper segregation of the works from building operatives and GLL will be involved closely within these discussions with the main contractor as well. These works may need to be carried out outside of normal working hours and will require careful scheduling to minimise disruption.
- 5.7. The work will involve the lifting of heavy plant up onto the roof of the building. During this process, safe access and egress arrangements for the leisure centre staffs and visitors will be maintained. The contractor will also be required to maintain the heating and hot water service during the plant room changeover works. An acceptable location for the temporary boiler plant will need to be agreed prior to the commencement of the works.
- 5.8. Planning approval has not been received for this project. The estimated time for planning approval is 8-12 weeks. If the planning application is rejected, the application will be resubmitted. To avoid any delays in the planning application process, the planning application will be submitted as soon as the contract has been awarded to Vital Energi. The planning application will be done based on the completed RIBA Stage 4 design.
- 5.9. The Energy Services team will oversee the management of the project taking into consideration:
  - Project delivery timelines agreed by Salix for the provision of the grant funding.

- Regular communication updates to staff and visitors affected by the work to ensure they are aware of the ongoing progress or delays which may arise.
- Detailed and robust risk assessment method statements (RAMS).
- Regular progress meeting with the contractor appointed.
- Close adherence to the program of work and agreed milestones.
- Managing resource against contractors' programme of works.

5.10. Selecting a single main contractor covering all the elements of this project will lead to better control over design, site production and coordination of Health and Safety matters. A single point of contact for any queries will be more efficient method of managing the overall project from start to finish.

## 6. Key procurement considerations

### 6.1. Social Value Requirements

6.1.1 In the approved procurement strategy in July 2024, the Council has outlined the required and additional social value requirements that will need to be included in the contract with the appointed main contractor.

6.1.2 Vital Energi has agreed to deliver the required and additional social values within the contract period as per the following:

- **Employment:** One Improver-route opportunity scheme (required) and one work placement (additional)
  - Both opportunities will be paid in governance with the London Living Wage.
  - Co-design with the council the academic material for this scheme – focus towards upskilling Green Skill Practices across retrofit schemes.
  - Provide further bolt-on CITB accreditations.
- **Career advice and mentoring:** Four days presentation at schools surrounding future career opportunities and green technology (additional).
  - Educating younger audiences on small steps to reduce their energy consumption and become 'Eco Champions'
  - Provide exposure to more mature audiences on their current role, responsibilities, and previous experiences within the industry, and helping them to recognise their own strengths/weaknesses and the careers which would be best suited to them.
- **Career advice and mentoring:** Two days for group site-visits across the Archway Leisure Centre development (additional).
  - Provide attendees (students/young people) with a more visual presentation as to the working conditions, elements, and everyday activities that they can expect to find on site.
  - It will also provide them with an understanding as to work cultures and skills adopted across each profession, allowing them to make a more informed decision as to which career is of interest to them.

- **Enterprise support and set-up:** Provide 1-day attendance to a local “meet the buyer” event (additional).
  - This event will be a platform to advise businesses as to where the current opportunities are within the market, how this is shifting in comparison to the past 5-years and how to adjust to any challenges to come, with insights as to any new regulations and requirements being introduced into the industry.
- **Local Economy (additional):** to exceed their targets when producing a localised workforce by utilising Islington Construction Directory database, analysing their own regional supply chain partners, and vetting any new merchants/contractors who can contribute to the successful delivery of the Archway Leisure works.
- **Wider social value support to local community (additional):** Donation of £2,000 to the Islington Library of Things and one day attendance towards volunteering activities to raise money for local charities and/or otherwise bringing benefit to the community.

6.2. The London Living Wage will be a condition of the new contract.

6.3. 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.

## 7. Procurement award criteria

7.1. The PCSA has concluded with a tender price submitted by Vital Energi Utilities Ltd on 29 August 2024 in the sum of £2,071,581.52 for the full construction/installation cost. This is inclusive of the Fusion 21 Decarbonisation Framework fees (2.5%).

7.2. The overall project cost including the cost of the PCSA and EWA contracts is therefore £2,587,816.12 which is slightly over the current budget allocation (£2.312m). The budget allocation was set at a relatively early point in the project prior to detailed design and planning. However, the increase in the cost by £275k can be covered by the contingency budget that has been allocated for this project.

7.3. The increase in cost has been due to the following reasons:

- Lack of building information and structural drawings of the leisure centre. Further additional surveys were needed to ensure the structural strength of the roof can withhold the weight of the ASHP and its acoustic enclosure.
- Design of the steel frame for the roof to ensure that the roof can withhold the weight of the ASHP and its acoustic enclosure.
- Distribution Network Operator (DNO) capacity upgrade needed for electrical capacity of the site to support the installation of ASHP.

7.4. Following the completion of the PCSA stage, Vital Energi has also submitted the Contractor's Proposal to the council. The assessment of the Contractor's Proposal was completed in accordance with the requirement and performance specifications set at the outset of the project.

7.5. Vital Energi Utilities Ltd provided a detailed quality response for each of the deliverables. A programme methodology provided reassurance that the project will be completed safely within the contract duration. This was issued via the Construction phase Health and Safety plan, construction programme and logistics and phasing plans. A risk register was also provided and gave an outline of the process of monitoring, mitigating and reviewing risk throughout the project.

7.6. During the design development process under the PCSA, Vital Energi was required to submit their design for the decarbonisation works at every RIBA Stages (RIBA Stage 2, RIBA Stage 3 and RIBA Stage 4) for the council to review and approve. This was done sequentially and at each RIBA Stage, the design was reviewed and approved by the Council with the advice from externally appointed technical consultants before being able to proceed to the next design stage. Vital Energi has also addressed all feedback and comments from the technical consultants to ensure that the design works are up to the required standard.

7.7. The council has reviewed these proposals with advice and support from externally appointed Technical Mechanical and Electrical (M&E) Engineering Consultants and Quantity Surveyor/Contract Administrator. This review has concluded that value for money has been achieved. Therefore, it is recommended that the Council enters the second stage JCT Design and Build agreement with Vital Energi Utilities Ltd to deliver the works through the completion of the project.

## 8. Contribution to the Islington Together 2030 Plan

8.1. The decarbonisation of Archway Leisure Centre project is in line with the Islington Together 2030 Plan. Within the plan, the Council is determined to deliver Net Zero Carbon by 2030. As part of this programme, the Council has a commitment to begin replacing gas boilers in Council buildings with low carbon heating and to improve energy efficiency, as well as assessing the buildings' solar power



capability. This will contribute largely to the Greener, healthier Islington as one of Islington's five priorities.

## 9. Implications

### 9.1. Financial Implications

9.3.1 This report seeks approval to award a contract to Vital Energi Utilities Ltd for £2.072m for the council's decarbonisation project at Archway Leisure Centre. This is one of three contracts that make up the total expenditure for the project.

9.3.2 The initial total estimated value of this project was £2.312m. Due to the reasons outlines in Paragraph 7.3, the total project cost is now anticipated to be £2.588m, with the additional cost funded through contingency within the Decarbonisation capital programme allocation. This is split between capital works for the main contractor (£2.525m) and the Fusion 21 Framework Fee (3%, £0.063m). This is largely funded from the Public Sector Decarbonisation Scheme (£1.975m) plus a council contribution (£0.613m in the approved capital programme).

9.3.3 The cost and design submitted by Vital Energi Utilities Ltd has been reviewed by cost consultants who have confirmed it provides value for money for the council.

9.3.4 The remaining £1.580m of the Public Sector Decarbonisation Scheme grant will need to be drawn down by 31 March 2025. Vital Energi Utilities Ltd indicate that the works will complete beyond this date so a delayed completion request will need to be submitted to Salix Finance for their consideration. This request will be subject to review/approval (the council submitted requests on previous projects).

9.3.5 As noted in 5.2, the ASHP, solar panels, heating and cooling system and BMS optimisation are expected to complete by 31 March 2025 totalling £1.701m. This expenditure will be eligible for the Public Sector Decarbonisation Scheme grant and all further expenditure will be funded from the council contribution (above).

9.3.6 There is a risk that if the project is delayed, the council will lose access to the PSDS grant to fund expenditure occurred after 31 March 2025. If this happens, a decision will need to be made on how the council will fund the remainder of the works using existing resources. Due to the current financial climate, the council is not in a position to incur any further unfunded borrowing. Other projects within the capital programme will need to be reduced or revenue budgets will need to be identified to fund the revenue costs of borrowing.

### 9.2. Legal Implications

9.3.7 The Council has a vision to be net zero carbon by 2030. The Public Sector Decarbonisation Scheme provides grant funding to assist public sector bodies to achieve their net zero strategies by implementing heat decarbonisation and energy efficiency measures. As detailed in the report, the Council has secured funding from this Scheme to assist the Council to undertake works that will provide energy efficiency measures at Archway Leisure Centre.

- 9.3.8 As detailed in the report, Vital Energi Utilities Ltd were awarded a Pre-Construction Services Agreement as part of the overall procurement of the energy efficiency measures under a two stage design and build contract for the decarbonisation works outlined. As detailed in the procurement strategy report dated 4 July 2023, the use of the Fusion 21 Decarbonisation Framework Agreement to procure the contractor for these works via a two-stage process is permitted pursuant to both the Public Contract Regulations 2015 (“PCR”) and the Council’s Procurement Rules.
- 9.3.9 Whilst there is no obligation to award the second stage design and build contract to Vital Energi Utilities Ltd, for the reasons outlined in the report officers have determined that to do so represents the most effective means of completing the decarbonisation works and represents best value for the Council. The contract to be awarded will be pursuant to the terms of the Joint Contracts Tribunal (“JCT”) Design and Build Contract as amended by the Council. These terms satisfy the Council’s Procurement Rules in that they cover elements such as Social Value, London Living Wage and Blacklisting.
- 9.3.10 The Council has the power to procure and enter into such contracts under section 1 of the Local Government (Contracts) Act 1997 and s111 of the Local Government Act 1972 which enable the Council to carry out any activity that is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions and to enter contracts accordingly.
- 9.3.11 The Local Government Act 1999, requires the Council to make arrangements to achieve Best Value in the exercise of its functions when considering a service provision, which includes the works detailed in the body of the report.
- 9.3.12 Under Procurement Rule 16.2 the Executive may delegate its responsibilities to Corporate Directors or the Chief Finance Officer.
- 9.3.13 The decision maker can approve the Recommendations contained in this report provided they are satisfied with the contents of the report and they consider the award of the contract represents best value for the Council.

### 9.3. **Climate Change and Environmental Implications**

- 9.3.14 The delivery of the measures will have some environmental impacts during their implementation. These include material and energy use as well as the requirement to remove and dispose of existing infrastructure (heating system, etc.).
- 9.3.15 There is also potential for some nuisance issues such as noise to neighbouring properties during construction. There will also be some travel-related impacts by the contractors.
- 9.3.16 The main environmental implication will be the reduction of overall energy use through the energy efficiency measures to be installed and the change from gas to electricity to provide space heating and hot water heating (including for the swimming pool) through the installation of Air Source Heat Pumps and the removal

of gas boilers. This will reduce carbon emissions (320 tCO<sub>2</sub>/ year) and reduce local air pollution. The amount of carbon savings will increase as the electricity is decarbonised through renewables.

- 9.3.17 The installation of Solar PV at Archway Leisure Centre will decrease the amount of electricity drawn from the grid further driving down carbon emissions.

## **9.4 Equalities Impact Assessment**

9.4.1 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.

9.4.2 An Equalities Impact Assessment was completed on 20 April 2023. The main findings are:

- Service users at Archway Leisure Centre will benefit from the works because the measures will make the buildings more comfortable and healthier to be in because they will be warmer, cooler (depending on the season/weather – thermal comfort) and have improved air quality, which will improve their physical and mental well-being. The retrofit works will also improve the energy efficiency of the buildings, resulting in lower energy consumption.
- The works will have short term negative impact on the service users, who may have to be directed to other leisure centres for the most disruptive works. Careful engagement with the facilities manager will ensure minimal disruption, such as prioritizing the summer period for the low-carbon heating works or carrying out works outside of normal business hours to avoid from the leisure centre being closed down and avoid any financial implications on the business.
- Overall, the temporary adverse impacts are far outweighed by the long-lasting positive impacts on the well-being of the residents.

The full Equalities Impact Assessment is appended.

## **10. Timetable for implementation**

10.1 Please see table below for the project timeline

Item	Date
Approval Key Decision Report	4 October 2024
Call-in period expire	9 October 2024
Contractor Appointment/ Contract Award	October 2024
Contractor Mobilisation	October 2024
Planning Application	October 2024 – January 2025
Construction/ Installation	December 2024 – April 2025
Commissioning and Handover	May 2025
Project Completion	June 2025

**Report authorised by:**

Director of Climate Change and Transport

Date: 6 September 2024

**11. Record of the decision**

I have today decided to take the decision set out in section 1 of this report for the reasons set out above. My agreement is indicated by the checkbox below.

Decision authorised by:

**Corporate Director of Community Wealth Building**



Date: 4 October 2024

**Appendices (exempt):**

- Exempt Appendix 1: Project Profile Spend between April 2024 – March 2025

**Appendices:**

- Appendix 2: Equalities Impact Assessment

**Relevant decisions / reports:**

- Procurement Strategy – Public Sector Decarbonisation Scheme delivery for Archway Leisure Centre

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