

Report for: **Cabinet 17 October 2023**
Title: **Approval of new construction contract at land opposite 16 Park Road/Edith Road N11**
Report
Authorised by: **David Joyce, Director of Placemaking and Housing**
Lead Officer: **Robbie Erbmann, Assistant Director for Housing**
Ward(s) affected: **Bounds Green**
Report for Key/
Non Key Decision: **Key Decision**

1. Describe the issue under consideration

- 1.1. This report seeks Cabinet's approval to complete the delivery of eight new Council homes on Council land at 16 Park Road/Edith Road N1. The scheme consists of two three-bedroom town houses, one of which is fully adaptable, five two-bedroom flats one that is fully accessible for wheelchair-users, and one four-bedroom duplex apartment. The scheme will improve the existing public realm and was the first scheme in the borough to achieve Planning for a truly net-zero carbon on site. Detailed planning permission was granted on 3 July 2020. Works started on site with the previous contractor in September 2021, however, following lack of progress and repeated underperformance by the appointed contractor the Council terminated its contract in March 2023. Subsequently, the appointment for a new contractor to complete the development has been underway.
- 1.2 Cabinet is asked in light of the formal procurement exercise to approve the appointment of contractor A (further details in exempt report), to complete the delivery of these new Council homes on a former vacant/car park site at Land opposite 16 Park Road/Edith Road N11 (See Appendix 1).

2. Cabinet Member Introduction

- 2.1 With this decision, Cabinet has the chance to change the lives of eight families - to move at least 15 children out of overcrowded or insecure accommodation and into the high-quality homes they deserve. The new Council homes at Edith Road are beautifully designed, with plenty of space and light, and with communal and private outdoor green spaces for everyone. By designing to rigorous energy standards, omitting the use of fossil fuels for heating and hot water, and implementing a significant rooftop array of solar photovoltaic panels, and heat pumps, the Edith Road scheme will respond directly to the Climate Emergency declared by the Council in March 2019 making it a 100% zero carbon scheme for Haringey. The Project will achieve the GLA's zero-carbon target through onsite means alone, with a 104.6% reduction against Part L in CO2 emissions.
- 2.2 The decision would also significantly improve this area of Bounds Green. On the site of what was an unattractive, walled-off vacant space opposite Springfield Community Park, this development will improve the public realm, increase biodiversity, maximise views to the park, and bring new refuse and cycle facilities for the existing residents at Tredegar Road.
- 2.3 It has been a challenging journey to this point. But the way we have managed the issues with the previous contractor and kept this project on track, shows how far our housing delivery programme has come. After 40 long years with no new Council homes, we have now built up the skills and capacity to deliver for the long term.

3 Recommendation

3.1 It is recommended that Cabinet:

- 3.1.1. Approves pursuant to the Council's Contract Standing Orders (CSO) 9.07.01d, the appointment of Contractor A (named in the exempt part of the report) to undertake building works to complete the provision of eight Council rented homes at land opposite 16 Park Road/Edith Road for a total contract sum of £2,404,164; and approves the on costs and client contingency sum set out in 6.31 of the exempt part of the report (Appendix 2).
- 3.1.2. Approves the issuance of a letter of intent up to a maximum value of £240,416 being no more than 10% of the contract sum.

4 Reasons for decisions

- 4.1 On 3 December 2019 Cabinet included the land opposite 16 Park Road/Edith Road N11 into the Council's housing delivery programme. This scheme was subsequently granted planning consent and a works contractor was appointed to build the scheme in November 2021. However, due to lack of progress, underperformance and entry in to a Company Voluntary Arrangement by the Contractor, the Council terminated the contract and took back possession of the site and partially constructed building. A tender process was initiated in late spring 2023 to appoint a new contractor to complete the development.

In this case a Performance Bond is in place against which a full Claim will be made in accordance with legal advice and Claims protocols.

- 4.2 The Council seeks to performance manage all Contractors by continual vigilance by the Council's Project Manager and the oversight of both Employer's Agent and Clerk of Works to every New Homes Build Project.
- 4.3 This continuous monitoring, allied to frequent Site Meetings and both formal and unannounced Site inspections, ensures that the Council is able to obtain value for money on all New Homes Projects by reducing waste on Site in terms of time, materials and labour costs, and works collaboratively with our appointed Contractors to build sustainable partnership working, which enables problems to be solved in a manner that ensures the best and most cost effective outcomes for the Council and our future Tenants.
- 4.4 This partnership working relies on trust and transparency on both sides of the working relationship and, regrettably, this was not an approach adopted by the previous Contractor who chose not to openly identify their corporate problems and instead mistakenly relied on the Council lacking proper professional diligence.
- 4.5 This working practice was quickly identified by the Council Team, including the external and independent Employer's Agent and Clerk of Works and despite more frequent Site meetings and discussions at Director level with the Contractor, their poor performance led, ultimately, to their abandonment of the Site in mid – Construction, followed, shortly afterwards, by their entry in to a Company Voluntary Arrangement (CVA). A CVA is used when a limited company is insolvent, it can use a CVA to pay creditors over a fixed period.
- 4.6 The Council always seeks to determine a Contractor Company's financial health by due diligence at the time of entry into the Contract, hence the reason for Contract terminations to be a, very rarely used, last resort. In this case the financial checks were satisfactory at the date of the Contract, but the extraordinary levels of labour and materials inflation experienced in 2021 and 2022 as a consequence of Brexit and the War in Ukraine, had an extremely adverse effect on the finances of the Contractor in this case and the Council, having taken independent legal advice, was forced to adopt this very unusual step.

- 4.7 Contractor A has been selected via a formal tender process to undertake these works. The competitive nature of the Tender and the evaluation of the Tender returns (more particularly described below) has involved Council Officers in additional due diligence and detailed technical clarification to ensure that best value for money can be demonstrated and achieved and, if approved, Contractor A will be subject to the continuous monitoring and performance assessment described above until the new homes have been delivered and occupied.
- 4.8 The Council's New Homes Employer's Requirements have two principal objectives: 1. To ensure that the next generation of Council Housing is built to the highest standards of design, engineering and specification and 2. That the new Homes will be as fuel efficient as possible and will be readily capable of economically viable maintenance throughout their lifespan of not less than 80 years. These are the tests to which all Contractors are put, and the Strategic Procurement Team have been vigilant in ensuring that all of the compliant Tenderers for this Project were subject to these tests of quality and performance which are scored separately and rank equally with the price mechanism against which each Bid is evaluated.
- 4.9 Following a formal procurement process, a contractor has been identified to undertake these works.

5 Alternative options considered

- 5.1 It would be possible not to appoint a contractor to complete the development of this site for the Council. However, this option was rejected as it would leave a partially constructed building on the site and blight the area, furthermore, it does not support the Council's commitment to deliver a new generation of 3000 Council homes by 2032.
- 5.2 Additionally, a failure to complete the partially constructed development would lead to a further burden of cost being placed on the Council's Temporary Accommodation portfolio and supporting Services and would have potential for some reputational damage to the Council. This was not considered to be a viable, value for money option for the Council which can, by the appointment of Contractor A, continue to deliver a high quality Scheme at a competitive cost.
- 5.3 The re-tender was procured via a competitive tender through the West Works Dynamic Purchasing System (Category 2), using JCT Design & Build 2016 with amendments, the recommended route for a contract of this value. An alternative option would have been to do a direct appointment, but this option was rejected due to the estimated contract value of the scheme and to give opportunities for local small to medium size contractors to submit a tender.

6 Background information

Edith Road development site

- 6.1 As shown in the red line boundary plan (Appendix 1), the site is located within Bounds Green ward on the corner of Edith Road and Park Road. The site is not within a conservation area, but to the front of the site is Springfield Community Park. To the south and west is Tredegar Road home to a four storey modern residential building and to the east, a row of two story houses and a car park respectively. To the north east on Park Road is a row of Victorian terraced houses.
- 6.2 This land is owned by the Council and held within the Housing Revenue Account.

- 6.3 On 3 December 2019, Cabinet approved the inclusion of the land opposite 16 Park Road/Edith Road site into the Council's housing delivery programme to determine its feasibility and capacity for the delivery of new homes on the basis that, if appropriate, its development would be progressed through to planning consent.
- 6.4 Designs were developed that will deliver a total of 8 properties consisting of two three-bedroom town houses of which one that is fully adaptable, five two-bedroom flats of which one that is fully accessible for wheelchair-users and one four-bedroom duplex flat, all at London affordable rent and detailed planning permission was granted on 3 July 2020.
- 6.5 The Housing Engagement Team held an engagement event for residents on Thursday 30 January 2020 (6.30pm to 8.30pm), at the Redemption Church of God Hall with the project team in attendance to explain the proposals to attendees and take questions on the project. A letter advertising the event and asking for views was sent to residents in the area surrounding the site. The feedback from consultation did not require any major configuration to the design.
- 6.6 The scheme was submitted to planning on the 28 February 2020 and residents were formally consulted as part of this process. Planning approval of the scheme was granted on the 3 July 2020.
- 6.7 A number of engagement events and correspondence has taken place since September 2021 informing residents of the programme for works with the most recent event in January 2023 as well as regular update letters to residents since.

Re-tender of contract

- 6.8 The substructure works have been completed. The new contractor will take responsibility for the works completed to date. Architectural design is substantially complete. The existing architect and Structural Engineer will be employed by the new Contractor to ensure continuation of Design Warranties. Foundations are complete and the new contractor will take the design responsibility for these. The structural design is also substantially complete. The partial completion of the roof to the two town houses is also complete.
- 6.9 During the re-tender period, work to procure having the entire roof of the whole development has been underway to ensure the building is weatherproofed and does not suffer any further deterioration.
- 6.10 This report is seeking approval of the new construction contract in order complete the partially completed development.
- 6.11 A new contractor is now needed to undertake the remainder of new build works to complete the scheme to PC. It is currently anticipated that the new contract period will be 40 weeks.
- 6.12 The selected contractor was asked to respond to a 50% quality 50% price assessment. They responded with their proposal on 25 July 2023. Full tender sum analysis based on the cost consultants estimate has been provided in Appendix 2, which is exempt due to the commercially sensitive nature of this information.
- 6.13 Costs were evaluated independently by the Project Team's Cost Consultant to ensure value for money in line with current market trends.
- 6.14 The contract is to be awarded on a fixed price basis. It includes new build works, site mobilisation, site enabling works, management costs and includes overheads and profits and there is a defects and liability period of 12 months.

Procurement Process

- 6.15 The contract was tendered via the West Works Dynamic Purchasing System (Category 2) on 23 May 2023.
- 6.16 The procurement process was undertaken jointly with two separate Lots include Edith Road (Lot 2) and White Hart Lane (Lot 1). Bidders had to submit prices for both Lots in this tender. Bidders were expected to price for each of the Lots (Lot 1 + Lot 2) and provide a combined price in the Form of Tender for both Lots that may offer a discounted price if both Lots are awarded to one Contractor.
- 6.17 In total seven (7) suppliers registered under (Category 2) were initially invited to tender. Five contractors submitted Expressions of Interest and subsequently three opted in to full tender stage and three submissions were received by the tender deadline date on 25 July 2023.
- 6.18 Tender submissions were checked for compliance and completeness by the Strategic Procurement team on 26 July 2023. All were found to be compliant and complete and were taken forward to evaluation.
- 6.19 The tenders were evaluated for Quality and Price as set out in the ITT document.
- 6.20 Following the evaluation process, the total overall Quality and Price scores were combined to provide the ranking of the bidders in accordance with the Most Economically Advantageous Tender (MEAT) and as outlined in the tender documents.
- 6.21 The information below summarise the overall tender scores achieved by each Bidder in line with the tender evaluation criteria of 50% Price and 50% Quality as set out in the Invitation to Tender document.
- 6.22 Bidder A had a highest overall score for both Lots 1 and 2 and therefore were required to offer a discount giving value for money and has offered 2.5% for Lot 2.

Supplier	Quality Score (50%)	Price Score (50%)	Total Score (100%)
Bidder A	43.30%	50.0%	93.30%
Bidder B	29.22%	43.3%	72.52%
Bidder C	26.20%	48.3%	74.50%

Contribution of Strategic Outcome

- 6.23 The recommendations in this report will support the outcomes of the Corporate Delivery Plan, in particular theme 5 'Homes for the Future'.
- 6.24 In particular, the recommendations in this report deliver explicitly on the aim "to deliver 3,000 new council homes (by 2031) that are very close to zero carbon".
- 6.25 By designing to rigorous energy standards, omitting the use of fossil fuels for heating and hot water, and implementing a significant rooftop array of heat pumps and solar photovoltaic panels, the Edith Road scheme will respond directly to the Climate Emergency declared by the Council in March 2019. It is the first scheme in the borough to achieve planning permission for a 100 per cent reduction in regulated carbon dioxide emissions on site.

7 Legal

- 7.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of the report.

- 7.2 The Council has undertaken a procurement via the West Works Dynamic Purchasing System (Category 2)
- 7.3 Pursuant to Contract Standing Orders (CSO) 9.07.1(d) The Cabinet has authority to award contracts valued more than £500,000.
- 7.4 Cabinet has authority to approve the issuance of a letter of intent up to 10% of the contract sum.
- 7.5 The Head of Legal and Governance (Monitoring Officer) sees no legal reasons preventing Cabinet from approving the recommendations in the report.

8 Procurement

- 8.1 Strategic Procurement (SP) note that this report relates to the approval of Approval of new construction contract at land opposite 16 Park Road/Edith Road N11
- 8.2 SP support the recommendations in this report in accordance with Contract Standing Order (CSO) clause 7.0.1. (b)
- 8.3 Pursuant to CSO 7.01 (B) and Regulation 34 of the Public Contracts Regulations 2015, we can confirm that Tenders were invited through the Westworks Development and Construction Dynamic Purchasing System. We received 3 complaint tenders and following a thorough evaluation process; Contractor A has scored the overall highest price in Quality and Price.
- 8.4 SP support the recommendations and have no objections with awarding this Contract to Contractor A for the value outlined in the Exempt report.

9 Finance

- 9.1 The scheme is on course to deliver eight council homes at London affordable rent.
- 9.2 The revised costs to completion have been assessed and can be contained in the HRA
- 9.3 Further finance comments are contained in the exempt report.

10 Equality

- 10.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
 - 10.1.1 Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act.
 - 10.1.2 Advance equality of opportunity between people who share those protected characteristics and people who do not.
 - 10.1.3 Foster good relations between people who share those characteristics and people who do not.
- 10.2 The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.
- 10.3 The proposed decision relates to new build works to provide eight new homes at land

opposite 16 Park Road/Edith Road, N11: this includes the appointment of a contractor, the appropriation of land opposite 16 Park Road/ Edith Road, and approval of plans to override easements and other rights of neighbouring properties.

- 10.4 The decision will increase the supply of Council rented homes to local residents. This is likely to have a positive impact on individuals in temporary accommodation as well as those who are vulnerable to homelessness. Data held by the council suggests that women, young people, and BAME communities are over-represented among those living in temporary accommodation. Furthermore, individuals with these protected characteristics, as well as those who identify as LGBT+ and individuals with disabilities are known to be vulnerable to homelessness. It is further noted that one of the five two-bedroom flats is fully accessible for wheelchair users which will benefit residents with certain disabilities. As such, it is reasonable to anticipate a positive impact on residents with these protected characteristics.
- 10.5 From an equalities perspective, it is noted that the engagement with residents has taken place and that the feedback from consultation did not require any major configuration to the design, that the land under question is currently held for planning purposes and is vacant, and that there is no reason to believe that any third party rights will be significantly infringed by the development. In addition, as an organisation carrying out a public function on behalf of a public body, the contractor will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty as stated above.

11. Use of appendices

Appendix 1 – Red line boundary Edith Road.

Appendix 2 – Exempt Report

12 Local Government (Access to Information) Act 1985

Appendix 2 is NOT FOR PUBLICATION by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 in that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information).