

## MUNICIPAL YEAR 2015/2016 REPORT NO.

### ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

#### PORTFOLIO DECISION OF:

**Cllr. Ahmet Oyken**

Cabinet Member for Housing  
and Housing Regeneration

#### REPORT OF:

**Ian Davis**

Director – Regeneration &  
Environment

**Agenda – Part: 1**

**KD Num: 4018**

#### **Subject:**

Heating Renewal and Changeover on the  
Exeter Road Estate  
(Ashcombe House, Honiton House,  
Newton House, Tiverton House, Ashburton  
House & Crediton House)  
Enfield, London EN3 7TT

**Ward:** Enfield Highways

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## **1 EXECUTIVE SUMMARY**

This report seeks approval to award the contract for the replacement of the life-expired under-floor electric heating in the 6 housing blocks on the Exeter Road estate. This report also seeks approval to enter into an Operation and Maintenance contract in relation to these works. This is a Key Decision of the Council and is on the Key Decisions List reference KD4018.

## **2 RECOMMENDATIONS**

- 2.1 That approval be given to award the lowest priced acceptable tender received for the works, as detailed in the part two report.
- 2.2 That approval is also given to enter into an Operation and Maintenance contract for the works, as detailed in the part two report.
- 2.3 It should be noted that the carbon credits created by these Energy Efficiency heating measures are to be “committed” to an Energy Company Partner, to offset part of their Energy Company Obligation (ECO) targets, in exchange for the funding provided to the successful contractor.
- 2.4 That it is noted that the proposed Decent Homes heating replacement works are to be part funded from the Housing Capital Programme (identified in the Housing Revenue Account) and are to be part funded by ECO funding.

- 3.1 The properties identified for heating improvement works under this contract are part of Enfield Councils' Decent Homes Programme, which is a Government initiative to ensure that all social housing meets minimum set standards of decency by 2015. The overview of the 5-year programme of works to be undertaken to the Councils' Housing stock was presented to and approved by Cabinet in October 2012.
- 3.2 The Exeter Road estate consists of four identically constructed 13 storey high-rise blocks each of 50 flats and also two 4 storey low-rise blocks one of 14 flats and the other of 16 flats. This gives a total of 230 units of which 182 are rented and 48 are leaseholder properties.
- 3.3 The breakdown of the blocks is as follows:

<b>Block</b>	<b>Tenants</b>	<b>Leaseholders</b>	<b>Total</b>
Ashcombe House	43	7	50
Honiton House	44	6	50
Newton House	39	11	50
Tiverton House	44	6	50
Ashburton House	4	10	14
Crediton House	8	8	16
<b>Totals</b>	<b>182</b>	<b>48</b>	<b>230</b>

- 3.4 Tenders were invited from four specialist heating companies / energy companies who were able to provide detailed designs to meet the performance specification provided and who would also have access to ECO funding. Four tenders were returned and were passed to the Council's consultants for analysis and recommendation based on price alone. An analysis of the tenders is contained in the Part Two report.
- 3.5 It is planned to commence the works in October 2015.

#### **4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 The alternative options considered for this project were:
- (a) Do nothing
  - (b) Repair the existing underfloor heating
  - (c) Renew with new electric heating
  - (d) Renew with alternative powered heating (Gas, Bio-Mass, GSHP)
- 4.2 The four high-rise blocks are currently in the final stages of an External Wall Insulation cladding / window renewal contract and have previously had new kitchens and bathrooms. Therefore the option of "doing nothing" and the "repair option" have both been discounted, due to the previous levels of recent investment in this scheme.
- 4.3 The "renew with new electric heating" option has also been discounted due to capacity issues on the existing electricity mains to the blocks, which would

have meant complete renewal and upgrade of all the estate electrics to take the additional electrical loading.

## **5. REASONS FOR RECOMMENDATIONS**

- 5.1 All contractors who tendered for this project have fulfilled the Council's criteria for undertaking this type and value of work.
- 5.2 The recommended contractor has submitted the lowest tender and has been judged capable of complying with the performance specification.

## **6. COMMENTS OF THE DIRECTOR OF FINANCE RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS**

### **6.1 Financial Implications**

- 6.1.1 The tenders for this project were evaluated on the basis of the published criteria on lowest price.
- 6.1.2 The scheme is included within the Housing Capital Programme for 2015/16. The cost of this work will be funded from the HRA capital resources and external ECO funding
- 6.1.3 More detailed financial implications relating to the costs of the preferred bid are included in the Part 2 report.

### **6.2 Legal Implications**

- 6.2.1 The contents of this report constitute a Key Decision as the recommendation to accept the recommended tender for the replacement heating works will lead to capital expenditure exceeding £250,000. This item has been included in the Key Decision List ref. KD 4018. Once approved the decision to proceed will be subject to the usual five day call-in period.
- 6.2.2 The Council has the power to provide housing and to improve or repair it (section 9 of the Housing Act 1985). The provision of replacement heating is incidental to the housing provided (section 111 Local Government Act 1972). The Council is empowered to enter into contracts for the discharge of its legal powers (section 1 Local Government (Contracts) Act 1997). Under section 20 of the Landlord and Tenant Act 1985, the Council as landlord has the ability to recharge leaseholders for major works via service charges provided that there has been appropriate consultation pursuant to the Service Charges (Consultation Requirements) (England) Regulations 2003 No.1987. The Council also has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals generally may do, provided it is not prohibited by legislation and subject to Public Law principles. Pursuant to these powers the Council can enter into the contract for the works to replace the life-expired under-floor electric heating and also the related operation/maintenance contract. The communal heating works and Operation/ Maintenance (O&M) services have been procured following a competitive quotation process and the Council's

consultants have confirmed that the recommended tender for each of the works and the O&M services is a compliant tender. Four tenders were returned for the works; hence the Contract Procedure Rules (CPR) rule 7.2 has been complied with.

6.2.3 All contracts must be in a form approved by the Assistant Director of Legal Services. Given the proposed contract value for the works contract, the sealing requirements of the CPR rule 18.3 must be complied with (including attestation by or on behalf of the Assistant Director of Legal Services).

6.2.4 Throughout the engagement of the service provider, the Council must comply with its obligations with regard to obtaining best value under the Local Government (Best Value Principles) Act 1999.

6.2.5 The recommendations within this report are in accordance with the powers cited above.

### **6.3 Property Implications**

6.3.1 The obligation to maintain communal heating in a proper safe condition is an important Corporate Landlord duty upon the Council. This includes their replacement when they become beyond practical or economic repair.

6.3.2 The provision of reliable heating to Council housing stock in high rise towers is a component of the asset valuations.

### **6.4 Leaseholder Implications**

6.4.1 Please refer to the Part 2 report.

## **7 KEY RISKS**

The main risks to the scheme are presented below together with the corresponding mitigation actions.

<b>Item</b>	<b>Risk</b>	<b>Impact</b>	<b>Probability</b>	<b>Mitigation</b>	<b>Owner</b>
1	Non delivery of project	High	Medium	Develop project delivery plan, commission consultants and contractor early	ALL
2	Quality issues	High	Medium	Set a benchmark and monitor at site meetings through CA & CoW reports. Measure continuous improvements using KPIs.	Project Manager

3	Cost over run	Medium	Low	Rigorous cost planning, early reporting, comprehensive specification, inclusion of contingencies, tender analysis.	Project Manager
4	Time over run	High	Medium	Manage approvals stage. Monitor programme, monthly reports and damages.	Project Manager
5	Additional work identified	Medium	Medium	Detail and agree scope of works, prioritise core works, use contingency	Project Manager

## **8 IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

This project will contribute positively to the Council's priority of Fairness for All. The heating has been selected for renewal on the basis of priority and the new heating has been designed to better meet the needs of residents suffering from or near to fuel poverty levels. The new heating will also be more reliable and cheaper to run. This will benefit all residents of the flats, particularly disabled residents, parents with young children and the elderly. This will contribute towards residents' quality of life by ensuring they have a reliable controllable heating at all times of the year.

### **8.2 Growth and Sustainability**

The heating renewal works will assist in making the blocks more attractive to potential future tenants. Improving the standard of housing stock enhances the sustainability of the area and promotes social cohesion.

### **8.3 Strong Communities**

The project will contribute to strong communities by ensuring that residents are able to fully participate in the activities of the wider community.

## **9 PERFORMANCE MANAGEMENT IMPLICATIONS**

The project is expected to have a positive impact on resident satisfaction performance indicators through the improved quality of the heating and the improved level of service.

## **10 HEALTH AND SAFETY IMPLICATIONS**

- 10.1 All construction work falls under the Construction (Design & Management) Regulations 2015. A project of this size also qualifies for notification to the Health and Safety Executive and the Council's appointed representative has sent this to the HSE. Health and safety considerations for this type of project include welfare facilities until the end of the project, various audits, inspections and reviews by both in-house and third party professionals. The passage of accurate and specific information is also critical and this will include asbestos survey reports in the form of an asbestos register leading to specific refurbishment surveys, fire risk assessments and any significant design changes.
- 10.2 A substantial amount of planning involving various agencies goes into the pre-construction phase e.g. the taking over of land, which is adequate in both size and location for site offices/welfare facilities. Asbestos surveys will be carried out before the planned start date for the works, to avoid delay to the commencement of building works.

## **11 EQUALITIES IMPACT IMPLICATIONS**

It is not judged to be relevant and proportionate to carry out an equality impact assessment/analysis for this proposal as it refers to the direct replacement of an existing facility within existing limitations.

## **12 PUBLIC HEALTH IMPLICATIONS**

The new heating will be more energy efficient and reliable than the existing installation and will offer a more controllable and economic solution.

### **Background Papers**

Contain exempt information.

**MUNICIPAL YEAR 2015/2016****REPORT OF:**

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**Subject:** Minor amendments to Enfield's  
Allocations Scheme for allocating Council  
and Housing Association homes

**Cabinet Member consulted:**  
Cllr Ahmet Oykener  
Lead Member for Housing

**1. Executive Summary**

- 1.1 Enfield's Scheme for allocating Council and housing association homes in the borough (Allocations Scheme) was agreed by Cabinet in November 2012 and implemented from February 2013.
- 1.2 The Allocations Scheme is being monitored and kept under review to ensure it meets the aims and objectives set out in the scheme.
- 1.3 To reduce potential legal challenge, two amendments are needed to Enfield's Allocations Scheme. The amendments are to award points to two groups of applicants. The two groups of applicants are:
  - Households approaching as homeless after 9 November 2012 and to whom Enfield has accepted a duty to house under homelessness legislation and have placed them in temporary accommodation pending making an offer of a private rented home to discharge the Council's duty
  - Households who have no other housing need but have been assessed as having a medium, low or zero health and well-being need
- 1.4 The proposed amendments are considered minor. Minor amendments can be agreed by the relevant Cabinet Member for Housing as set out in page 12 of Enfield's Allocations Scheme.

**2. Recommendation**

- 2.1 It is recommended that the Cabinet Member for Housing agree the following two minor amendments to Enfield's Allocation Scheme:
  - (a) **Post 9 November 2012 homeless households to whom Enfield Council owes a full duty to house under the homelessness legislation and placed in temporary accommodation (TA) by the Council pending discharge of the duty into the private rented sector**

These households be dealt with under Group 4 of the Allocations Scheme and given 200 points. Applicants in this group are housed in date order in accordance with Enfield's Allocations Scheme.

**(b) Applicants with no other housing need but have been assessed as having a Zero, Low or Medium Health and Well-being (H&WB) need**

Applicants with no other housing need are awarded points where the Council assesses they have a health and well-being need as in accordance with Enfield's Allocations Scheme:

- Applicants assessed with a Medium H&WB need are awarded 150 points
- Applicants assessed with a Low H&WB need are awarded 50 points.
- Applicants assessed with a Zero H&WB award are awarded 0 points.

### **3. Background**

3.1 Enfield's Scheme for allocating Council and housing association homes in the borough (Allocations Scheme) was agreed by Cabinet in November 2012 and implemented from February 2013. The scheme is being kept under review.

3.2 The reasons for two minor amendments needed to Enfield's Allocations Scheme are set out below

**3.2.1 Post November 2012 homeless households, to whom Enfield has accepted a duty to house accepted under S193(2) of the Housing Act 1996 and placed in temporary accommodation pending discharge into the private rented sector**

Households who are homeless and to whom Enfield Council has accepted a duty to house under S193(2) of the Housing Act 1996 after 9 November 2012 and placed in Enfield's temporary accommodation pending an offer to discharge them into the private rented sector, are entitled to join Enfield's Housing Register.

At present Enfield's Allocations Scheme does not award any points to this group of applicant which means they are not accorded a reasonable preference as required under the Housing Act 1996.

It is proposed this group of housing applicant are awarded 200 points and are placed in Group 4 of Enfield's Allocations Scheme. Applicants in this group are housed in date order.

**3.2.2 Applicants with no other housing need but have been assessed as having a Zero, Low or Medium Health and Well-being (H&WB) need**

There are some applicants who have no other housing need (that is, they do



not fall into any of the circumstances covered by the housing groups in Enfield's Allocations Scheme) and Enfield Council has assessed them as having a health and well-being need for a Council or housing association home.

Applicants with no other housing need but assessed as having a high H&WB need are currently awarded 1000 points.

Households with no other housing need and assessed as having a Zero, Low or Medium H&WB need are not currently awarded any points. These applicants may have a reasonable preference under the Housing Act 1996.

It is therefore proposed to amend the Allocations Scheme to award applicants with no other housing need the following points where they have an assessed health and well-being (H&WB) need:

- Applicants with a Medium H&WB award are given 150 points
- Applicants with a Low H&WB award are given 50 points.
- Applicants with a Zero H&WB award are given 0 points.

These points are in line with the H&WB points awarded to other categories of applicant covered by Enfield's Allocations Scheme.

## **5 Alternative options considered**

- 5.1 None: Not making these amendments to Enfield's Allocations Scheme would increase the likelihood of legal challenge.

## **6. Comments of the Director of Finance, Resources and Customer Services and Other Departments**

### **6.1 Financial Implications**

The proposed amendment to allocate "200 points to applicants who apply to Enfield's Housing Register who approached Enfield as homeless after 9 November 2012 and to whom Enfield has accepted a duty to house under homelessness legislation and have placed them in temporary accommodation pending making an offer of a private rented home to discharge the Council's duty" may result in savings for the Council if anyone from this group of applicants obtains a Council or housing association home. In 2015/16, the projected annual savings to the Council would be £3,300 per household if nightly paid temporary accommodation is no longer needed.

Allocation of points to applicants with no other housing need, but have been assessed as having a Zero, Low or Medium Health and Well-being will not have any financial impact on the Council's budgets.

### **6.2 Legal Implications**

- 6.2.1 Under the Housing Act 1996 Part 6 every local authority must have a housing allocation scheme for determining priorities and procedures for allocating housing accommodation. Local authorities have a statutory duty to give a

'reasonable preference' to certain groups of person who have a particular need to move i.e. a person who needs to move because of a medical reason or if they are homeless. A local authority is required by law to publish their allocation scheme and explain how priority for housing is awarded. The amendments that are being proposed are all in accordance with the Housing Act 1996 Part 6. The recent Westminster case of *R(Alemi) v Westminster (2015)* demonstrates the risks of not agreeing to place them on the Housing Register.

Westminster placed all accepted cases on their register but disbarred them from bidding for 12 months as they expected the applicants to look for privately rented accommodation during this time. This was deemed to be unlawful by the County Court as this was denying them reasonable preference.

- 6.2.2 There is no authoritative definition of what constitutes a major change of policy. The Allocation of Accommodation: Guidance for Local Authorities 2012 Code says at para 5.2 that "a major policy change would include, for example, any amendment affecting the relative priority of a large number of applicants or a significant alteration to procedures". Case law supports this contention. In *R v Lambeth BC [2002]* a change in the proportions of accommodation to be allocated between different groups of applicants did not constitute a 'major change of policy'.
- 6.2.3 It is therefore unlikely that the Courts would regard this amendment as "a major change of policy" requiring consultation. It does not fall within the example given by the Code of Guidance and seems to affect fewer applicants than those involved in *R v Lambeth*.

## Background papers