

MUNICIPAL YEAR 2017/2018 REPORT NO.100

MEETING TITLE AND DATE:

Overview and Scrutiny
Committee – 23rd November
2017

REPORT OF:

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number:

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Agenda – Part 1

Item: 3

Subject: Post Tender Report for
Brimsdown Avenue – Major Works Bathroom
extension replacement and external
enveloping

Wards: Enfield Highway
Key Decision No:4514

Cabinet Member consulted: N/A

1. EXECUTIVE SUMMARY

1.1 This report details a call-in submitted in relation to the following decision:

Cabinet decision (23rd October 2017): Post Tender Report for Brimsdown Avenue – Major Works Bathroom extension replacement and external enveloping

1.2 Details of this decision were included on Publication of Decision List No: 35/17-18 (List Ref:2/35/17-18) issued on 3 November 2017.

1.3 In accordance with the Council's Constitution, Overview and Scrutiny Committee is asked to consider the decision that has been called-in for review.

1.4 The members who have called-in this decision have major concerns about the award of this contract.

2. RECOMMENDATIONS

2.1 That Overview and Scrutiny Committee considers the called-in decision either:

- (a) Refers the decision back to Cabinet for reconsideration setting out in writing the nature of its concerns. Cabinet then has 14 working days in which to reconsider the decision; or
- (b) Refers the matter to full Council; or
- (c) Confirms the original decision.

3. BACKGROUND

The background information relating to the called-in decision have been detailed in the Cabinet Member's (DAR) report (attached).

4. ALTERNATIVE OPTIONS CONSIDERED

None – Under the terms of the call-in procedure within the Council's Constitution, Overview & Scrutiny Committee is required to consider any eligible decision called-in for review. The alternative options available to Overview & Scrutiny Committee under the Council's Constitution, when considering any call-in, have been detailed in section 2 above.

5. REASONS FOR RECOMMENDATIONS

To comply with the call-in procedure within the Council's Constitution.

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

6.1 Financial Implications

The financial implications relating to the called-in decision have been detailed in the Cabinet decision report.

6.2 Legal Implications

S 21, S 21A-21C Local Government Act 2000, s.19 Police and Justice Act 2006 and regulations made under s.21E Local Government Act 2000 define the functions of the Overview and Scrutiny committee. The functions of the committee include the ability to consider, under the call-in process, decisions of Cabinet, Cabinet Sub-Committees, individual Cabinet Members or of officers under delegated authority.

Part 4, Section 18 of the Council's Constitution sets out the procedure for call-in. Overview and Scrutiny Committee, having considered the decision may: refer it back to the decision-making person or body for reconsideration; refer to full Council or confirm the original decision.

The Constitution also sets out at section 18.2, decisions that are exceptions to the call-in process.

6.3 Property Implications

There are no property implications related to this decision.

7. KEY RISKS

The key risks identified relating to the called-in decision have been detailed in the Cabinet decision report

8. IMPACT ON COUNCIL PRIORITIES

The way in which the called-in decision impacts on the Council priorities relating to fairness for all, growth and sustainability and strong communities have been detailed in the Cabinet decision report attached.

9. EQUALITIES IMPACT IMPLICATIONS

The Equalities Impact implications are detailed in the Cabinet decision making report.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The performance management implications identified relating to the called-in decision have been detailed in the Cabinet decision report.

11. PUBLIC HEALTH IMPLICATIONS

The public health Implications are detailed in the Cabinet decision making report.

Background Papers

None

Response to reasons why decision is being called in – Part 1

- (3) *Low tenders of this sort sometimes indicate financial difficulty and should therefore have been scrutinised by Philip Pank and the council more carefully.*

The contractor was engaged as a Framework contractor in May 2015 following the issue of Contract Notice 2014/\$ 180-316894 published in the Official Journal of The European Union on September 2014 and following a due tender process carried out in accordance with the Public Regulations 2006. Due Diligence, which included financial checks, was carried out in regard of the contract at that time. As part of the framework arrangements, work projects can be directly issued to any of the framework contractors. But most frequently, work is issued following a “mini tender” that is restricted to the framework contractors. As they have already been engaged through the framework, further background financial checks are not carried out as part of the mini-tender process

There is a noticeable difference between this contractor and the second lowest contractor in the cost for supply and installation of the Modular bathroom extensions. These works are procured through specialist subcontracting companies under the management of the Principal Contractor. The contractor has extensive experience in delivering these types of projects having previously carried out over 60 bathroom extensions for Enfield and over 300 for Sutton Housing. The experience gained in this type of works and established relationships with the specialist subcontractors enabled this contractor to offer more competitive rates for this element of work.

The council’s financial risk is limited: (a) because the contractor is required to post a bond; and (b) because we only pay them on the basis of invoices submitted for work completed. Therefore, if the contractor were to liquidate we would retain the bond and not pay any outstanding invoices. In this case the provision of the prefabricated extension pods will be sub-contracted so the risk to the contractor for liability for invoices from their supply chain is much greater than the risk to which the council is exposed.

- (5) *The council and its Quantity Surveyor should have been aware of the concerns listed in the Part 2 reasons and reported it to the Cabinet Member before the contract was awarded given the very poor performance of other council contractors on refurbishment contracts.*

Our experience with the contractor, on contracts dating back to 2014, has had positive outcomes and good resident satisfaction. Please see attached Appendix A outlining our experience of recent projects undertaken by the contractor for Enfield Council. Therefore, poor performance on other contracts is not relevant in this case. Please also refer to Part 2.

- (6) *There is also concern that the Quantity Surveyor post tender report refers to 73 properties while the council report refers to 84 properties.*

The project includes works to 84 properties in total. Works to all 84 include new kitchens, windows renewals, external doors fascia/soffit boards rain water goods and general repairs. From those 84, 73 properties will also be receiving a bathroom extension replacement.

APPENDIX A

THE CONTRACTOR'S CONTRACTS WITH ENFIELD

YEAR	CONTRACT NAME	VALUE	F/A AGRRED	PERFORMANCE/ QUALITY	COMMENTS
2015/16	Channel Islands external envelope works and new windows.	£4.4m	Final account agreed amicably.	Good overall performance, good management on site and excellent resident liaison.	High level of resident satisfaction
2014/15	Brigadier Hill - Decent homes internals	£2.3m	Final account agreed no issues or claims in agreeing this.	Initial issues on site with resourcing and numerous site management changes. Resolved at a later stage and works were completed to a satisfactory standard.	Resident Satisfaction was good.
2014/15	Jubilee external envelope works and window renewals.	£3.4m	Yes, following a number of meetings where the contractor accepted issues and agreed final account amicably.	Issues with site management, resource changes and poor arrangements and management of supply chains, led to delay in completion of the works. Consultants and Project Management worked collectively with the Contractor to bring final list of works to a conclusion and defects have been completed in the main.	Resident satisfaction was good as the works in delay were predominately to externals and communal areas.
2013/14	Dodsley- Externals	400k	Final account amicably agreed and retention released following completion of all defects.	Contract run late but quality of works was to a satisfactory standard.	High level of resident satisfaction