

## London Borough of Enfield

### Operational Report

**Report of** Joanne Drew - Director of Housing & Regeneration

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**Subject:** Award of Works Contract – Bliss and Purcell Houses, Building Safety and M&E infrastructure improvement works

**Cabinet Member:** Cllr G Needs

**Executive Director:** Sarah Cary – Executive Director - Place

**Ward:** Chase

**Key Decision:** KD 5129 Approving major works schemes outlined in the Major Works Programme 20/21 and Emergency Building Safety Works.

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### Purpose of Report

1. Following a compliant tender process utilising the Southeast Consortium (SEC) procurement framework, this report seeks approval to award a Contract for Building safety and M&E infrastructure works at Bliss and Purcell Houses.

### Proposal(s)

2. That the contract to complete Building safety and M&E infrastructure works at Bliss and Purcell Houses be awarded to Contractor 1.

### Reason for Proposal(s)

3. The Better Council Homes programme includes targeted investment in Council housing. The agreed programme includes building safety improvement measures, sustainability improvements and the replacement of aged and failing water infrastructure which combined are having a detrimental impact of residents' quality of life.

4. The procurement plan for the 20/21 capital programme was approved at the Place Procurement Board on Tuesday 24<sup>th</sup> September 2019 noting that all such procurement activity would be carried out in accordance with the Councils' procurement rules, this to ensure that the programme delivers both value for money and attains the quality standards expected by residents.
5. A complaint tender exercise was undertaken using the SEC procurement framework which was evaluated on 60/40 cost and quality basis in line with the frameworks agreed weighting criteria. Contractor 1 submitted the second lowest price for the works and scored the highest quality marks therefore achieving the highest score overall. It is therefore demonstrated that "contractor 1" has submitted the most economically advantageous tender with relevant commercial detail being provided in Part 2.

### **Relevance to the Council's Corporate Plan**

#### **Good homes in a well-connected neighbourhood**

6. The programme will improve the quality and safety of existing homes contributing to the creation and sustainability of thriving neighbourhoods and places

#### **Sustain strong and healthy communities.**

7. The proposed works will assist and sustain the development of high quality, safe housing, in areas which people desire to live so contributing to the building of strong, sustainable communities.

#### **Build our local economy to create a thriving place.**

8. Through effective procurement, consultation and liaison residents will be encouraged to share responsibility for delivering a successful project and its' positive contribution to the local economy.

### **Background**

9. Bliss and Purcell Houses are two, twelve storey, high rise residential blocks of flats, located in the North of the Borough. The blocks were selected for priority building safety works in 2019, following identification of High Pressure Laminate (HPL) cladding on two flank wall elevations.
10. The Cladding was removed in early 2020 as a priority stand-alone project, in line with Central Government Guidance to secure the safety of the blocks, whilst internal improvement works were specified and procured.
11. The scope of internal works encompasses:
  - The installation of new, third party certified fire doors to flats, communal areas and landlord-controlled areas;

- Enhancement to passive controls including; fire stopping to compartment walls and floors, at junctions and around service penetrations;
- Enhancements to internal flat fire detection systems in line with current British Standards;
- Improvements to block and emergency lighting systems
- Installation of a domestic sprinkler systems within dwellings and defined plant areas;
- Replacement of failing internal soil and vent pipes (SVPs);
- Redecoration of the communal areas to Class O standard to prevent the internal spread of flame over surfaces;
- Renewal of communal floor coverings;
- Installation of new signage and wayfinding;
- Building security enhancements to design out Anti – social behaviour;
- *NB works to replace the passenger lifts at both blocks are subject to a separate procurement exercise.*

12. The works will be undertaken to the blocks detailed in the table below

Property Location	Block Name	Address	No of dwellings
A	Bliss House	1 Holbrook Close, London, Enfield. EN1 4UL	72
B	Purcell House	2 Holbrook Close, London, Enfield. EN1 4UH	72

13. The works are required to ensure that the Council as the Responsible Person/ Landlord, complies with its statutory duties under; The Regulatory Reform (Fire Safety) Order 2005 and the Regulator of Social Housing, Homes standard.

### **Main Considerations for the Council**

14. The Council has statutory duties under the Landlord and Tenant Act (1985) and Commonhold and Leasehold Reform Act (2002) to maintain its buildings in a good state of repair.

15. The Council, under the Regulatory Reform (Fire Safety) Order has an obligation to ensure the risk from fire is reduced as far as reasonably practicable. These works have been identified in recent Fire Risk Assessments, as such the Council has a legal duty to undertake these works.

### **Safeguarding Implications**

16. The works will require contractors' operatives to enter resident's homes. Accordingly, contractors will require Disclosure and Baring Service (DBS) checks. Compliance with the Councils Safeguarding Policy will also be mandatory for all consultants, contractors, their operatives and employees.

17. The proposed contractor is required to provide a dedicated, full time Resident Liaison Officer (RLO) whose role is to ensure that residents needs are given

due accord during the pre-contract and construction phases of the project. Evaluation and assessment of the contractors offer in this area are a substantial component of the qualitative evaluation.

### **Public Health Implications**

18. The new fire prevention works will improve the safety and living conditions of the blocks current and future residents aligning with the provisions of the Enfield Joint Health and Wellbeing Strategy which identifies the importance of housing as a determinant of health. The works will:

- i. Help facilitate the safe and quick evacuation of occupants.
- ii. Ensure the defensive barrier of the flats is maintained and keep compartmentalised areas protected.
- iii. Protect residents, visitors to the block, operatives, members of the public, property and minimise damage in the event of a fire.
- iv. Replacement of the drainage stacks will help provide a healthy and sterile living environment

19. The contractor will be completing works in-line with the governments Covid Secure and CLC guidelines. They will be required to provide detailed method statements and risk assessments for each activity. The Council and its principle designer/contract administrator will review and comment on these plans prior to the commencement of works.

20. All bids received allow for the currently known Covid related restrictions. It should be noted that additional restrictive measures may be introduced nationally or locally which may have negative impact on project delivery.

21. A comprehensive communications procedure will be jointly developed by the council and the contractor including an resident's information pack, a council appointed Resident Liaison Officer (RLO) and a contractor appointed RLO whose duties will include enabling access and supporting residents whilst works are carried out to their home.

### **Equalities Impact of the Proposal**

22. Corporate advice was sought in relation to equalities with agreement being reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report. It should be noted however that any contracts awarded should include clauses imposing duties on the successful tenderer to assist the Council in meeting its obligations under the Equalities Act 2010.

## Environmental and Climate Change Considerations.

23. Where appropriate and relevant works will be in accordance with Approved Document L “conservation of fuel and power”. This to enhance the thermal comfort of residents, decrease bills where possible and reduce carbon emissions from the residential sector in accordance with local and national targets.
24. Generally and specifically, where possible the materials specified are those with the lower/least environmental impact commensurate with the required performance standards being met such as water based rather than solvent based coatings.

### Risks that may arise if the proposed decision and related work is not taken

22. The primary risks that may arise if the decision and works are not taken are set out below:

Risk	Likelihood	Impact
Increased fire risk from certain items that require installation and upgrade	Medium	High
The Council has a statutory duty under the Regulatory Reform (Fire Safety) Order to ensure the risk is reduced as far as reasonably practicable. These works have been identified in recent Fire Risk Assessments, as such the Council has a legal duty to undertake these works	Medium	High
Deterioration of property that may lead to increased future costs	Medium	Low
Increased levels of resident dissatisfaction with the condition of their homes	Medium	Medium
The Council will fail to meet Decent Homes Standard	Medium	Medium

### Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

Item	Risk	Impact	Probability	Mitigation	Owner
1	Quality Issues	<b>M</b>	<b>L</b>	Set benchmark, monitor site meetings through Contract Administrator (CA) & Clerk of Works (COW)	Project Manager

				reports, measure continuous improvements using KPIs.	
2	Cost Overrun	<b>M</b>	<b>M</b>	Applied lessons learned from previous scheme, early reporting, comprehensive specification, inclusion of contingencies, tender analysis	Project Manager
3	Time Overrun	<b>H</b>	<b>M</b>	Monitor programme, monthly progress reports & LADs.	Project Manager
4	Coronavirus	<b>L</b>	<b>L</b>	Service continuity maintained. Please refer to Part 2	Project Manager
5	Contractor Insolvency	<b>H</b>	<b>L</b>	The contractors' finances were checked	Project Manager

### **Financial Implications**

An investment budget was approved as part of the rent setting report in February 2020 and the costs of these works are included, in the HRA 30-year business plan.

### **Legal Implications**

25. Under Section 1(1) Localism Act (2011) the Council can do anything individuals' generally may do provided it is not prohibited by legislation and subject to public law principles. There is no expressed prohibition, restriction or limitation contained in statute law against the use of this power in this manner.

26. Under Section 111 of the Local Government Act (1972) Local Authorities have power to do anything (whether involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The matters outlined in this report are incidental to the functions of the Council's departments and are intended to help ensure an effective service.
27. The Homes (fitness for human habitation) Act (2018) requires landlords to ensure that property (under their ownership and/or control) is fit for human habitation on the occupation date and for the duration of a contract. It is no longer possible for Landlords to argue that works are not required merely because there is no disrepair. Repairing obligations imposed under Section 11 of the Landlord & Tenant Act (1985) covers structure, the exterior including drains, gutters, external pipes, installations in homes including water, gas, electricity and sanitation with the Landlords obligations relating to the structure are treated as extending to any part of the building in which they have an estate or interest.
28. Rights existing under Contract and Common Law require Landlords to maintain an existing fire escape and/or stairway in its possession/ownership/control. Under the Regulatory Reform (Fire Safety) Order (2005) Landlords must ensure that its buildings are safe from fire, that they carry out regular and periodical risk assessments and ensure that tenants, operatives, employees, visitors to the buildings and members of the public will always have access to an unrestricted escape route. Landlords must ensure that fire doors are correctly installed, that a safe escape route is provided and that fire, smoke and fume resistant emergency lighting capable of resisting these effects so as to allow safe evacuation of the building is installed. Accordingly, the Council is required to carry out the refurbishment and new installation works listed in section 11.
29. The current value of the works is below the current European Union Threshold however taking into consideration potential additional fees (contingency fees), for the purposes of procurement it was deemed that the contract value would likely exceed the relevant 'works' threshold thus the Public Contract Regulations 2015 (PCR 2015) were applied to the procurement of this contract. The use of the SEC Framework is a compliant way to procure and award provided that the process complies with the PCR (2015), the Councils Contract Procurement Rules (CPRs) and the terms of the framework itself. The Procurement & Commissioning Hub carried out due diligence on the SEC framework and has confirmed that a complaint procurement process has been undertaken.
30. The terms of the contract procured for this project must be consistent with the SEC framework and it, along with all and any other supplementary contractual documentation must also be in a form approved by the director of Law and Governance ahead of contract commencement.
31. With respect to any contract with a value of £1M and over (as is the situation with this contract) the Councils' CPRs (7.2) state that the contractor be

required to provide sufficient security. In accordance with CPR 7.3 “sufficient security” means one of the following

- i. parent company, ultimate holding company or holding company guarantee where their finances prove acceptable;
- ii. directors guarantee or personal guarantee where the finances prove acceptable
- iii. performance bond, retained funds, cash deposit or;
- iv. any other security as determined by Financial Management Services and/or Legal Services.

32. Evidence of the form of Security required or why no security was required must be stored on the e-tendering portal for the purposes of audit. The Council should liaise with the P&C Hub for assistance on this.

33. Where contract values exceed £500,000.00 it is incumbent on officers to ensure this report follows the Council’s Key Decision process.

34. The Council must always comply with its obligations relating to the obtaining of best value under the Local Government (Best Value Principles) Act (1999).

### **Workforce Implications**

35. At this time this report carries no expressed or implied implications for the Councils current workforce as the described works will neither be carried out nor completed by its employees.

36. The Resident Liaison Officer resource provided by the Council as support falls within the usual workload and job description/person specification for the currently employed RLO’s.

37. Should the Council at some stage in the future consider bringing the work in-house/insource the project, consideration must be given to the Councils statutory obligations relating to the Transfer of Undertakings (Protection of Employment) Regulations.

### **Property implications.**

38. There are no known property implications in connection with this report.

### **Procurement Implications**

39. A review of known suitable works framework agreements was undertaken by the Service to identify available agreements to the Council, critiquing each option to narrow down those that can be considered, considering delivery timescales.

40. Due diligence and approval of the South East Consortium (SEC), the preferred agreement, was undertaken by the Procurement Services prior to any procurement.



41. All Call-Off procurement documentation from the Framework Agreement must be retained on the Councils E-Tendering Portal.
42. As the contract is over £1M the service must ensure that provider provides sufficient security.
43. The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the London Tenders Portal including future management of the contract.
44. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

### **Other Implications**

45. Prior to tender a review of suitable works framework agreements was undertaken as the estimated contract sum was likely to exceed the OJEU limits for works. The SEC Framework is compatible and compliant with both the Councils the OJEU procedure.
46. The award of the contract including evidence of authority to award, promoting to the Councils contracts' register and the uploading of executed contracts must be undertaken with SEC and Contracts' Finder to comply with frameworks terms of use and central governments transparency requirements.

### **Options Considered**

47. Consideration was given to the procurement of the works through a competitive tender process.
48. In terms of procurement options there were two main routes for consideration:
  - Use of a suitable consortia framework agreement, with appointment via direct award or mini tender
  - Unilateral tendering of a bespoke contract utilising either the open or restricted process
49. Using a framework can save time and money, while still delivering a service specified to local requirements. Contractors are assessed for suitability prior to joining the framework and have signed up to pre-agreed terms and conditions. Standard documentation is also provided as well as support from the framework itself.
50. Tendering a contract allows clients to create bespoke documentation designed to fit its requirements. This approach also opens up the opportunity to tender to a wider group of bidders.

### **Conclusions**

51. Following a compliant procurement process, it is recommended that approval be given to award, Building Safety and M&E infrastructure improvement works at Bliss and Purcell Houses to “Contractor 1”.

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## **Appendices**

Appendix 1 – Part 2 (Confidential) report