

London Borough of Enfield

Operational Report Report of Sarah Cary, Executive Director Place

Subject: Reardon Court Extra Care Housing Development – Approval to award Construction Works Contract

Executive Director: Sarah Cary

Ward: Palmers Green

Key Decision: KD 5182

Purpose of Report

1. This report seeks authority to award a Design & Build works contract for the construction of the extra care scheme, consistent with the previous Cabinet decision KD5344.

Proposal(s)

2. That approval is given to accept the tender and award the contract to Contractor “A” in the Confidential Appendix for the construction of 70 affordable homes to be provided as extra care for older people, in line with the approved HRA capital budget.
3. That approval is given to enter into the contract for the construction works for the maximum contract price detailed in the Confidential Appendix A.

Reason for Proposal(s)

4. Following an EU compliant tender process via the Procure Partnerships National Framework, the tender from Contractor “A” is deemed compliant and accepted as the maximum price. The Contract Sum Analysis is provided in the Confidential Appendix A.

Relevance to the Council’s Corporate Plan

5. The development of Extra Care Housing at Reardon Court contributes to the Council’s Corporate Plan by providing a vibrant inclusive living environment for older people with support and care needs, that fosters connection with the wider community through shared activity and social space. It supports work on reducing inequalities through the provision of accessible and affordable housing in later life.
6. The development of affordable housing for older people at Reardon Court will enable the provision of good quality, affordable housing for those most in need, supporting older people to maintain independent and full lives in the community. It will also support the improvement of public health and wellbeing, through the promotion of healthy and active ageing, that supports social inclusion and reduces the likelihood of social isolation and loneliness.

Background

7. Demolition of the existing building commenced in January 2021 and completed in April 2021, to facilitate the main construction works to begin later this year.
8. A revised planning application was submitted in July and consented in January 2022 to provide 70 fully affordable, extra care homes for older people. All homes are dual aspect, with views out into the courtyard spaces and adjacent park. The project involved the complete redesign of an existing planning consent to provide more communal areas for residents in light of concerns about infection control, more recreational space for activity and design solutions and to address concerns raised by adjacent residents. Existing residents have raised concerns about anti-social behaviour taking place outside of the site and the new development will help to reduce this by creating active frontage at the end of the road and natural surveillance.
9. Given the challenges presented in the market in 2021, the GLA worked positively with officers to agree a programme extension to March 2022 for start on site and additional grant for the revised scheme. The GLA approved grant of £10.5m which equates to £150k per unit. This revised the 2019 allocation approved by the GLA (£9.4m) which is allocated under the Department of Health Specialised care and support programme.
10. To secure the grant, the Council is required to enter into all contracts necessary for the completion of the works including the PCSA and (subject to satisfactory performance by the contractor) the subsequent JCT together with all ancillary documentation. The PCSA has been awarded under a separate authority as the value is below £500k and facilitates enabling works and design development as required to satisfy the GLA funding terms. If the authority to award is not approved there is a risk the grant will be withdrawn, which will mean that the Council will not proceed to enter into the main contract for works with Contractor A.
11. The works contract will be awarded as design and build which will enable the Council to transfer most of the risk to the contractor. Using the design and build approach for this scheme will also enable a start on site whilst the Stage 4 and construction drawings for some elements are still in development. This will be crucial in achieving a start on site date of March 2022 to secure the GLA funding.
12. Following an assessment of the procurement options, it was recommended to proceed to tender with a call off using the Procure Partnerships Framework. To mitigate risk during the tendering period and to maximise the quality of the response, a collaborative tendering approach was used in accordance with the Framework terms. This allowed the contractors access to the current design team throughout the tendering period via a number of structured workshops on different packages of works. This approach was approved by the Procurement Services team and the Framework Provider. The procurement is detailed contained within the Confidential Appendix.
13. Over the last few weeks the Council has clarified the contract sum to establish an efficient and lean design that encompasses programme and buildability efficiencies. Each work package is priced by the contractor and they take responsibility for estimating quantities, resources and assessing/pricing all risks that are identified. This has resulted in a build cost with 90% cost certainty for the full contract period, subject to any additional abnormalities identified during construction.
14. Value for money has been tested through cost and supply workshops, utilizing an open book approach and benchmarking against the existing cost plan for the scheme.

15. A Contract Sum Analysis has been prepared by the Quantity Surveyor, Stace LLP, who recommended the contract award on the basis that the tender was in line with current market costs and includes contingency. The contract sum is based on an 86 weeks programme which is 6 months longer than the pre-tender estimate. This reflects the market changes to the supply chain which has been impacted by the Covid-19 pandemic and continued delays to imports due to exiting the European Union.
16. The enabling work is due to start on site in March 2022, with completion of the building in 2024.

Main Considerations for the Council

17. If the project does not commence this financial year the GLA have advised that the allocation for grant funding will be withdrawn. The Department of Health were also advised in September that the Council is on track to commence on site.
18. The development of Extra Care Housing on the Reardon Court site will support cost reduction for Adult Social Care in respect of funding care and support. Local evidence indicates that the average cost to Adult Social Care of supporting an individual in Extra Care Housing is less than high cost residential placements or community packages.
19. The overall budget includes contingency and additional adjustments to the contract sum will be sought during the pre-contract services stage to minimise cost overruns.
20. The professional services team was appointed in 2019 from the SCAPE consultancy framework to deliver the scheme from design stage, through planning and to manage the build stage. Perfect Circle (Pick Everard and sub consultants) will be retained to ensure compliance and quality of build. Additionally, the Contractor has appointed the project design team to ensure continuity of design throughout construction.
21. The project team is multi-disciplinary and includes Stace acting as Quantity Surveyor throughout the construction phase. The contractor will have assumed risk for cost increases to material and sub-contracting trades and the role of the QS will be to manage the budget, undertake monthly valuations and safeguard the Council's exposure to cost overruns.
22. To mitigate the cost of unforeseen delays, the Council will maintain a programme contingency to manage any unforeseen costs and seek further savings or value engineering of costs. Contractor meetings will be set up and lead by the Employer's Agent to ensure that all necessary legislative and client requirements are met and oversee all aspects of the construction and budget monitoring which will help the Council identify delays early.

Safeguarding Implications

23. The Enfield Safeguarding Adults Strategy 2018-2023 sets out the need to reduce social isolation, engage with our community to promote a culture where abuse and neglect are not tolerated and people are supported to protect themselves from harm. There is a link between social isolation and the increased risk of vulnerability and abuse.
24. This accommodation will encourage community cohesion, reduce isolation for those that may have been living alone, and support people to protect themselves from harm by providing both peer and professional support.

Public Health Implications

25. The Reardon Court Extra Care Housing development will contribute to the improved health and wellbeing of older people with care and support needs in the borough, facilitating prevention and early intervention, the reduction of health inequality and the delivery of high quality, integrated approaches to the delivery of housing with care in the borough.
26. The scheme will offer a purposefully designed environment to encourage healthy, active and inclusive ageing through for example, accessible allotment/garden space, accessible walkways and shared social space to encourage human connection and socialisation.

Equalities Impact of the Proposal

27. A predictive Equalities Impact Assessment has been completed for update and review pending approval of recommendations within this report. The proposed development is predicted to have a positive impact on disability and age groups, and a positive socio-economic impact on disadvantaged community groups, including people in poor health and people in social housing, through the extension of affordable Housing with Care options in the borough.

Environmental and Climate Change Considerations

28. A requirement of grant was the project needed to deliver a high sustainability performance. To meet Building Regulations energy standards, the strategy is to connect to the decentralised energy network which complies with the Council's current adopted planning policies. The return on cost is better for residents and as Energetik is wholly owned by the Council, this change has positive benefits on connection. This option has a higher initial cost but the additional capital investment will minimise ongoing revenue costs.
29. The revised scheme will explore options to ensure this energy strategy remains cost efficient and an affordable investment. If viable, temporary gas boilers will be used and once the heat network is connected in the Winchmore Hill area scheduled for 2024, that Energetik will provide the connection to the property and the heat exchanger substation. They will also be responsible for its operation, maintenance, repair and component replacement
30. In conclusion, the building is to have a thermally efficient building fabric exceeding both the minimum Part L standards and the building fabric performance within the Part L 2013 Notional Building. A 'best practice' air permeability figure has also been targeted to reduce fabric energy losses

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

31. As set out above the GLA have advised that if a building contract is not signed by March, then the grant allocation will be withdrawn. This will result in a c.£10.5m increase to the capital programme which would render the scheme unaffordable for the HRA to deliver in the next two years.

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

32. The price is based on a fixed period and deliverables which is based on a design and technical surveys. The programme forecast for 86 weeks reflects the current market fluctuations in the supply chain which is 6 months longer than the pre-tender estimate for the construction programme. The contractor will have assumed risk for

cost increases to material and abnormals in the ground. The contract provisions will help to de-risk the Council's exposure.

Financial Implications

33. In July 2021 Cabinet approved, the appropriation of Reardon Court from the General Fund to the HRA at nil value and approved the budget envelope for the HRA.
34. In February 2022 the 10-year capital budget was approved at Council as part of the HRA Rent Setting and Business plan update (KD5354), which included a budget for this project.
35. The July Cabinet report approved a scheme to deliver 69 units, however following planning application this has increased to 70 units.
36. The HRA hurdle rates are for the development of general residential properties and this scheme meets the IRR, NPV per unit and payback period requirements.
37. These units will be set at London Affordable rents and are expected to generate c. £616k per annum.

38. Financial Risks

39. Increase in build costs due to unforeseen circumstances – a contingency has been built into the project to cover unexpected costs. The budgets will need to be monitored closely and issues will be raised at the monthly Development Board meetings.
40. Delays in the project could result in additional costs and delays to rental income expected.
41. Delays in starts on site could impact the GLA grant expected, however award of this contract will ensure the grant conditions are met.

Legal Implications [by ZS on draft circulated on 10.03.2022]

42. The Care Act 2014 imposes a general duty on the Council to promote an individual's well-being. In doing so, the Council must provide or arrange for the provision of services, facilities, resources or any other steps it considers will contribute towards the prevention, delay or reduction of the development by adults and carers in its area of needs for care and support.
43. The Council has the power under s.1(1) Localism Act (2011) to do anything individuals generally may do providing it is not prohibited by legislation and subject to Public Law principles. There is no express prohibition, restriction or limitation contained in a statute against use of the power in the way proposed in this report. Under s.111 Local Government Act (1972) local authorities may do anything, including incurring expenditure or borrowing which is calculated to facilitate or is conducive or incidental to the discharge of their functions. The provisions of Section 9 of the Housing Act empower the Council to provide housing accommodation as part of its functions.
44. Previous Key Decision No 5344 delegated authority to award and enter into the construction work contract for the redevelopment of the Reardon Court site to the Executive Director of Place.

45. Pursuant to section 149 Equality Act 2010, a local authority must, in the exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment and victimisation, (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Age and disability are two of the protected characteristics listed in section 149 (7) Equality Act 2010.
46. The value of the contract is above the threshold for public works contracts (currently £5,336,937 (inclusive of VAT) under the Public Contracts Regulations 2015 (PCR 2015). The Council must ensure that it complies with the PCR 2015 and the Contract Procedure Rules (CPRs). CPR 14.4 states that Frameworks, where they exist, should be used provided Best Value can be demonstrated and managers are required to retain sufficient evidence to demonstrate compliance. Calling off from Frameworks is further permitted under regulation 33 of the PCR 2015. The contract award must be in accordance with the process set out in the Framework Agreement. The P&C Hub must carry out a due diligence exercise and advise that the Council can call off from the Framework.
47. The Council must comply with its obligations relating to obtaining best value under the Local Government (Best Value Principles) Act 1999.
48. In respect of any contract with a value of £1m and over, the Council's Contract Procedure Rules state that the contractor must be required to provide sufficient security. 'Sufficient security', means one of the following: (i) parent company, ultimate holding company or holding company guarantee where their finances prove acceptable; (ii) director's guarantee or personal guarantee where their finances prove acceptable; (iii) performance bond, retained funds or cash deposit; or (iv) any other security as determined by Financial Management Services and/or Legal Services. Evidence of the form of security required or why no security was required must be stored on the E-Tendering Portal for audit purposes. The Council should liaise with the Procurement & Commissioning Hub for assistance on this.
49. As the value of the contract exceeds £500,000, officers must ensure this report follows the Council's Key Decision process.
50. The contract recommended in this report must be in a form approved by Legal Services and must be executed under seal.

Workforce Implications

51. See Equalities Impact of the Proposal.

Property Implications

52. There are no changes to the Property Implications set out in the earlier relevant report on Reardon Court (ref. KD5344) and they remain extant.

Other Implications

Procurement Implications

53. All procurement must be carried out in accordance with the CPR's. Contracts over the EU threshold must be advertised on the OJEU and carried out in accordance with EU regulations.

54. Frameworks used must be legally compliance and used in accordance with the rules of the framework.
55. Rule 10.1 of the CPR's state that approval to award over £500,000 must be via the Key Decision governance.
56. Rule 25.3 states that contracts over £500,000 must be under seal with legal and copy of which must be uploaded to the LTP.
57. Evidence of evaluations must be uploaded onto the LTP for audit purposed.
58. All contracts must be promoted to the Contracts Register, and over £25,000 an award notice must be entered onto Contracts Finder. Over the EU threshold the award must be published on the OJEU.
59. A named contract owner must be entered into the London Tenders Portal, and for contracts over £250,000 evidence of KPI's and contract monitoring must be uploaded into the LTP.
60. It is the responsibility of the contract manager to maintain the data in the contract register, and make any updates, or changes due to variations or extensions.

Options Considered

61. Do nothing - This option is not recommended as it does not address the strategic requirement for additional accommodation of this nature, resulting in avoidable and costly placements to residential care. Over £10.5m capital funding to support the redevelopment of this site would be lost, as would opportunities for cost avoidance per annum.

Conclusions

62. The development of Extra Care Housing at Reardon Court will support the creation of thriving, affordable neighbourhoods, through the provision of good quality, accessible and affordable housing options for older people with support and care needs.

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Appendices

Appendix A: Confidential Appendix

Background Papers

Cabinet Report (KD5344)