

Item No.	Classification: Open	Date: 8 March 2018	Decision Taker: Strategic Director of Housing and Modernisation
Report title:		Gateway 2 - Contract Award Construction of new build units at Ivy Church Lane	
Ward(s) or groups affected:		East Walworth Ward	
From:		Director of Asset Management	

RECOMMENDATION(S)

The Strategic Director of Housing and Modernisation.

1. Approves the award of a works contract for Ivy Church Lane, to Aspen Build (East Anglia) Limited for a contract sum of £5,555,148 and an additional contingency amount of £277,757 for a period of 82 weeks from site possession commencing 2 July 2018 plus 12 weeks mobilisation.
2. Notes the project's associated on costs of £1,115,560 as detailed in paragraph 60.

BACKGROUND INFORMATION

3. Planning permission was granted on 19 July 2017 for 21 social rent units, a commercial unit which will be managed by LBS property services and a meeting room for residents to use who live on the Ivy Church Lane estate.
4. The scheme name was changed from Kinglake Garages to Ivy Church Lane so that it reflected the planning application scheme name.
5. The planned procurement strategy was the subject of a Gateway 1 report which was approved by the Strategic Director of Housing and Modernisation on 6 June 2016.
6. The Gateway 1 recommended procuring these works following the OJEU restricted procedure.
7. The procurement strategy relates to the council's 11,000 new homes programme.
8. The tenders sought for a JCT Design & Build Contract 2011 based on Southwark's Employers Requirements and the Stage 4 scheme design.
9. The works contract will be for a fixed period of 82 weeks from date of the transfer of site possession from the council to the contractor.

Procurement project plan (Key Decision)

10. See table below:

Activity	Completed by/Complete by:
Briefed relevant cabinet member over 100K	23/05/16
Approval of Gateway 1: Procurement Strategy Report	06/06/16
Add scheme to forward plan Forward Plan	19/02/18
Invitation to tender	09/10/18
Closing date for return of tenders	11/12/18
Completion of evaluation of tenders	14/12/18
DCRB Review Gateway 2:	19/02/18
Notification of forthcoming decision	12/03/18
Notification of implementation of Gateway 2 decision	16/03/18
Approval of Gateway 2: Contract Award Report	22/03/18
Debrief Notice and Standstill period after contract award	30/03/18
Contract award	30/03/18
Add to Contract Register	31/03/18
Publication of award notice in OJEU	31/03/18
Publication of award notice on Contracts Finder	30/03/18
Contract start	02/07/18
Contract completion date	01/01/20
Contract completion date – if extension(s) exercised	N/A

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

11. This procurement will deliver 21 social rent units, a commercial unit which will be managed by LBS property services and a meeting room for residents to use who live on the Ivy Church Lane, estate. The 21 social rent units being delivered will contribute to the council's objective of delivering 11,000 new homes 4 June 2043.
12. The award of the new contract is considered to represent value for money as set out in paragraph 64 of this report.

Key decisions

13. This report deals with a key decision.

Policy implications

14. These 21 new homes are in line with the council's principles and visions for a new housing strategy which is aimed at increasing the availability, affordability and quality of homes in the borough. The new homes will play a key role in assisting the council to achieve its target of building 11,000 new homes by 2043.

Tender process

15. The works contract was procured via the EU restricted procedure that follows two stages, the Pre Qualification stage followed by the Invitation to Tender stage. The tender exercise was undertaken using the council's e-procurement portal system Pro Contract 3.
16. Following advertisement through the OJEU and the London tenders portal on 8 August 2017 contractors responded to the PAS91 (the council's pre qualification questionnaire) by the deadline date of 6 September 2017. The PAS91 was evaluated in accordance with the guidance in the invitation to tender, with the top 5 scoring contractors invited to tender (ITT stage).
17. The ITT was issued on the 9 October 2017 and the closing date for the tenders was originally on the 20 November 2017. Following a number of amendments, including a request for an extension of time from one of the tenderers the tender date was further to extended to the 11 December 2017.
18. The tenders were reviewed on the 12 and 13 December. Four of the five contractors invited to tender submitted a tender. One contractor advised they wished to withdraw from the process.
19. Tender Clarifications were sought on a number of points as detailed in Appendix C of the Tender Report. Please refer to Appendix 1 of this report.

Tender evaluation

20. As part of their PAS91 submission tenderers were evaluated on the following requirements to demonstrate their ability to fulfil the requirements of the contract:
 - a. Experience
 - b. Quality and Value for Money
 - c. Community Engagement
21. The results of the scoring of the tenderers is available in the closed version of report. The top 5 scoring tenderers were shortlisted and invited to ITT stage. The lowest scoring contractors were notified that they would not be taken through to the ITT stage.
22. As stated in the Gateway 1 report and the ITT documents the tender was evaluated in line with the methodology detailed in the Gateway 1 and the ITT documents the most Economic Advantageous Tender (MEAT) was adopted with a 60/40 price, quality split.

23. Quality (40%) was evaluated by council officers and the Employer's Agent.
24. Tenderers were required to provide information to support their quality submission that demonstrated their ability to fulfil the requirements of the contract, the questions asked were focused around the following:
 - a. Quality, Innovation and Value for Money – 16%
 - b. Constraints and Delivery – 16%
 - c. Defects, Quality and Future Maintenance – 8%
25. The price and contract sum analysis (60%) were examined by Robson Low Francis (the Quantity Surveyor for the project). Financial checks on each tender were completed by the council's finance and governance department.
26. The lowest tendered total price submission was awarded the full 60%. Each of the remaining Tenderers were awarded points on a pro rata basis. The successful tender was Aspen Build (East Anglia) Limited.
27. The formula used for the price score is below:

$$\text{Price Score} = 60\% \left(\frac{\text{bidders form of Tender Price}}{\text{form of Tender Price of the lowest bid}} \right)$$

28. The form of tender price of the lowest bid is Aspen Build (East Anglia) Limited. Aspen Build (East Anglia) Limited form of tender price excludes the Employers Agent's estimated additional contingency sum.
29. Each tenderers price and quality scores were combined to provide a total score out of 100%.
30. It is recommended that the council award this contract to Aspen Build (East Anglia) Limited who attained the highest overall score.
31. A full breakdown of the quality and cost scores for all tenderers on each package is provided at Appendix 1 of this report, in particular, paragraphs 6.3 to 8.1 of the Tender Report.

Plans for the transition from the old to the new contract

32. Not applicable

Plans for monitoring and management of the contract

33. The project clienting, including the management and administration of the contractor appointment will be run and resourced through the New Homes Delivery Team in the Asset Management Division of the Housing & Modernisation Department. Performance of the consultant team will be subject to constant scrutiny and monthly formal review including reviews on cost, quality and programme. The officer client team will use a number of mechanisms for monitoring and controlling the financial and programme performance of the contract, including,

- Strategic cost plan, which will be regularly reviewed and updated

- Monthly site meetings and monthly progress reports
- Monthly financial statements by the contractor and verification by the Employers Agent
- Monthly appraisals of progress against programme
- Tracking and chasing actions on critical issues
- Periodic project team 'look ahead' workshops covering key phases of work and risks
- Risk and issues log

34. Payment will be on a monthly on the basis of a valuation that has been verified and agreed by the Employers Agent.

35. Internal governance arrangements for the programme were reported to cabinet in December 2014. These confirmed that ultimate responsibility for the overall programme resides with the Delivery Programme Board, chaired by the Strategic Director of Housing & Modernisation.

Identified risks for the new contract

36. The below table highlights the risk that have been identified for the new contract and the approach to mitigate them:

	RISK	RISK LEVEL	MITIGATION ACTION
1	Contractor has inadequate resources and management arrangements to mobilise and deliver the contract	Low	This was addressed as part of the PAS 91 and ITT process. The New Homes Delivery Team will also monitor the contract and regularly review performance.
2.	Contractor risk of insolvency	Medium	The New Homes Delivery Team has undertaken a credit check as part of the PAS91 analysis and ITT stage. Aspen Build (East Anglia) Limited are a high risk because their parent company has a loan of £2.3m owed to them from their parent company, and the parent company has high debts which is concerning, and may not have the ability to act as Aspen Build (East Anglia) Limited guarantor. The council will seek to get the contractor to obtain a NHBC insolvency cover, in addition to a performance bond / guarantee for this project.
3.	Project cost overruns	Low	The contract sum is inclusive subject to any provisional sums and future variations. All surveys have been carried out which should help mitigate against there being any unforeseen site conditions or abnormal. Any future variations will be fully scrutinised, justified and costed by the Employers Agent prior to instruction. Value engineering will take place where

			necessary to ensure that the budget is achieved. A contingency has been included in the overall costs as detailed in paragraph 62.
4.	Project delivery delays resulting from discharge of planning conditions and liaison with third party organisations.	Medium	The new homes delivery team will assist where possible with liaison with third parties to help mitigate delays, particularly any which may result from the discharge of planning conditions or necessary approvals from within the council. Reliance on utility companies remains a risk, particularly in relation to the relocation of the electrical substation. However the tender process tested the contractors experience in delivering construction projects, relying on successful liaison with third party organisations.
5.	Project delivery delays (general)	Medium	Liquidated ascertained damages sums have been included as part of the contract and will be claimable should the project overrun without any justification. Any extension of times will be fully scrutinised, justified and costed by the Employers Agent prior to agreement. Project progress will be monitored and slow progress will be addressed in the monthly project meetings.
6.	Contractor seeking further negotiations on contractual terms prior to entering into contract.	Low	A standard JCT works contract is being utilised, with the council's amendments to the terms clearly set out from the start of the tender process. The tender documents and clarifications during the tender process have been robust and clearly define the terms of the contract.

37. A performance bond/guarantee will be provided for this contract and the cost of the performance bond is included in the contract sum.

Other considerations (Design Specification Compliance)

38. Southwark council has standard specifications in a number of areas of work and these will be used as appropriate. This will include using Southwark Housing Design Standards.

Community impact statement

39. Southwark is a borough with high levels of deprivation, low income levels and high levels of housing need. Southwark's housing Strategy 2009-16 identified that there is a shortage of affordable housing in the borough, particularly of larger homes. Households from black and ethnic minority communities tend to be over-represented among those living in overcrowded, poor quality housing.

40. Cabinet agreed a new vision for Southwark through its 2013 to 2043 housing strategy which included a principle to use every tool at our disposal to increase the supply of all kinds of homes across Southwark.
41. The proposals to increase the supply of affordable, good quality homes will benefit households in need from all Southwark communities, and will increase the housing options available for older people and people with disabilities.
42. Those households in the vicinity of the new developments may experience inconvenience and disruption in the short term whilst works are taking place but such communities will benefit in the longer term from the provision of new homes. Particularly as 50% of these homes will be let to existing tenants from the local area subject to an agreed local lettings policy.
43. Local residents will continue to be consulted at each stage of the development proposals as outlined in the Charter of Principles agreed by cabinet in November 2014.

Social Value considerations

44. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

Economic considerations

45. The design briefs for the new homes will be developed in consultation with the 'user client' officers and make it clear that the council is seeking developments that are not only attractive and functional in their design but also durable and easy to maintain with low running costs.
46. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. The 11,000 new homes programme is a strategically important undertaking for the council and its benefits are expected to be realised in a number of ways, including the recruitment of qualified staff, retention of staff and an improved service delivery to the council. Due to the nature of the professional service being sought those employed will be paid in excess of the LLW. Each firm has agreed to this in section 2.2 of the contract amendments issued with the tender.
47. The appointed contractor will be participating in a local employment and training initiative in line with Southwark Economic Wellbeing Strategy 2012-20. The initiative will generally conform to any Local Government policy including requirements set-out by the Homes and Community Agency and/or Greater London Authority that generally will encompass the Contractor, wherever possible, being encouraged to employ local subcontractors and labour and shall involve the training and employment of local people. Such employment and training will be relevant to the needs of the local community

Social considerations

48. The new housing will provide high quality affordable housing for local people in need of accommodation. 50% of these homes will be made available to existing tenants in the local area based on an agreed local lettings policy. The remainder will be made available to other households in need of accommodation from the council's housing register.
49. The new rented homes will be let at social rent levels.
50. Apprenticeship and work placement opportunities will be sought from suppliers as expected by the council linked to the value of the contract. It is anticipated that at least 2 apprenticeship opportunities will result from this contact. This will be secured within this contract. The facilitation of the apprentice opportunities will be coordinated with the council's Local Economy Team.
51. The contractor will be required, once appointed, to adhere to the council's commitment to the London Living Wage, which will apply to all staff working directly on this contract.

Environmental considerations

52. The councils approach to procurement of design, development and construction process will ensure a requirement to maintain and improve the sustainability of each tendered project
53. By investing in high quality and well designed buildings and estates the Council aim to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough.
54. As part of the design development process, there will be a requirement for environmental assessments to be completed, with a view to identifying what impact would be caused by any proposed development.
55. A low energy, efficient and cost effective building engineering services design that keeps running costs to a minimum will be an essential component of the project brief. Key considerations will include;
 - Consideration of whole life-cycle costs
 - Sustainable sourcing
 - Incorporation of environmentally benign heating and lighting provision
 - Provision of facilities and equipment to encourage the re-use and recycling of materials including, where practical, water recycling.
 - Ensuring projects achieve Code of Sustainable Homes criteria or any successor requirement.

Market considerations

56. Aspen Build (East Anglia) Limited is a privately owned medium sized regional Management Contractor operating in East Anglia and beyond.
57. The MINT company report does not indicate how many employees it has.
58. The successful tenderer operates in East Anglia and London.

Staffing implications

59. There are no specific staffing implications to this report.

Financial implications

60. The value of the contract arising from the procurement described in this report is £5,555,148 which form part of a wider programme. The project will also have associated on costs of £1,115,602, which gives a Total Scheme Cost of £6,670,750.
61. The costs of delivery of new social rented homes can be funded 30% from Right to Buy (RTB) receipts allocated for new build and 70% from developer contributions under section 106, the latter subject to Planning Committee approving allocations to the relevant schemes. Any homes for sale element of schemes would need to be funded from eventual sales receipts but would require cash flow from wider Housing Investment Programme resources during construction.
62. The following tables show the breakdown of the total scheme costs and estimated apportioned costs of the residential and community hall elements which was previously approved in the Gateway 1 was :Procurement Strategy Approval, Contractor Services for the new Homes Delivery Sites under OJEU

Total Scheme Cost Breakdown	
Works	£5,555,148
Consultancy Fees	£563,617
Surveys	£17,188
Site Security	£20,000
Planning Payments	£14,835
Internal Fee (4%)	£222,205
Contingency (5%)	£277,757
Total	£6,670,750

Residential/Community Hall Cost breakdown	
Unit	
Residential	£6,174,873.77
Commercial Hall	£300,098.01
Community space	£195,778.22
Total	£6,670,750

63. The following table highlights the projected spend for the scheme during the duration of the contract.

Financial year	projected spend
2018/2019	£4,670,755
2019/2020	£2,000,000
	£6,670,750

64. The contract value is considered to represent value for money. The build cost per square metre equates to approximately £2,457 which is considered value for money and compares favourably with other projects within the 11,000 new homes programme. The sum is in line the pre-tender cost estimate for the works (estimated by Quantity Surveyor Robson Low Francis of £5,580,000).

Investment implications

65. The costs of this contract will be charged to the respective project cost code (H-8888-9553) programmed in the capital allocation for new homes delivery budgeted within the council's Housing Investment Programme.

Second stage appraisal (for construction contracts over £250,000 only)

66. A MINT company report has been undertaken details of which are included in the closed version of this report.
67. In addition to the score, the councils finance department undertook a desktop evaluation of the MINT report, reviewed financial statements to confirm financial ratios, any audit concerns and other indicators to ensure an acceptable level of financial risk for the authority and provided summary guidance on the financial standing.

Legal Implications

68. Please refer to paragraph 75 of this report for the legal concurrent.

Consultation

69. Local residents have been consulted throughout the design stage of the project and will continue to be consulted through a range of methods through each stage of the development as outlined in the Charter of Principles agreed by Cabinet in November 2014.

Other implications or issues

70. Not applicable.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

71. This report is requesting approval from the Strategic Director of Housing and Modernisation to award a works contract for Ivy Church Lane to Aspen Build Ltd in the sum of £5,832,905.
72. The report details the procurement process that was followed namely the OJEU (two stage) restricted procedure.
73. Paragraphs 15 - 31 describe the tender process and how submissions were evaluated, which was on the basis of award to the most economically advantageous tender (MEAT) using a 60/40 price quality split. This followed the pre-qualification stage where the top five scoring contractors were shortlisted to tender. The report confirms that in line with the methodology detailed in the Gateway 1 , Aspen Build Ltd submitted the most economically advantageous tender.
74. Paragraphs 33 to 35 detail the monitoring and management arrangements that will be in place during the life of the contract including payment terms that will be based on the monthly valuation.

Director of Law & Democracy

75. The Director of Law and Democracy notes the contents of this report which seeks the approval of the Strategic Director of Housing and Modernisation to the award of a works contract for the New Homes Delivery programme at Ivy Church Lane to Aspen Build (East Anglia)Limited.
76. The council's Contracts Standing Orders (CSOs) 4.4 states that all contracts above the EU threshold values require compliance with the Public Contracts Regulations 2015 (PCR 2015) following a publicly advertised competitive tendering process, as set out in the CSOs and in line with the procurement guidelines. It is considered that these works are regulated by the PCR 2015. On the basis of the information contained in this report it is confirmed that the procurement was carried out in accordance with CSOs and the PCR 2015.
77. Paragraph 64 of the report confirms that the contract represents value for money.
78. As part of the contract award process, there will need to be a standstill period of a minimum of 10 calendar days between notification of the successful tenderer that they have won the contract and the award of the contract to that tenderer, so as to allow unsuccessful tenderers the opportunity to challenge (if they decide to) the award of the contract.
79. A contract award notice will need to be posted in the OJEU within 30 days of the award of the contract.
80. The CSO provides that a contract may only be awarded if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of the council. Paragraph 61 of this report confirms how the proposed contract will be funded.

Strategic Director of Finance and Governance (H&M17/103)

- 81. The report is requesting delegated approval from the Director of Housing and Modernisation to award the new build works contract for Ivy Church Lane to Aspen Build (East Anglia) Limited in the sum of £5,555,148.
- 82. The report identifies the total costs of works including fees and contingency to be £6,670,750. The financial implications section of the report states how the scheme will be funded. Any other costs connected with this contract are to be contained within the existing department revenue budgets.
- 83. There is an estimated resource shortfall for the Housing Investment programme for 2017/18 and also over the life of the whole programme. There is also likely to be further demand on the capital programme as a consequence of local or national demands for resources following the Grenfell fire. It is, therefore, important that the cost of these works is carefully monitored and that accurate forecasting is in place.
- 84. Any variation or extension to the contact beyond the scope of this report will require further approval.in line with the Council's procurement protocols.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the Council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.



19 March 2018

Signature Date.....
Michael Scorer, Strategic Director of Housing and Modernisation

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

1. DECISION(S)
As set out in the recommendations of the report.

2. REASONS FOR DECISION
As set out in the report.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION
n/a

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION
none

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST
<i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i>
none

6. DECLARATION ON CONFLICTS OF INTERESTS
<p>I declare that I was informed of no conflicts of interests.*</p> <p>or</p> <p>I declare that I was informed of the conflicts of interests set out in Part B4.*</p> <p>(* - Please delete as appropriate)</p>

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
GW1 Contractor Procurement – Under OJEU	160 Tooley Street, SE1	Tim Bostridge

APPENDICES

No	Title
Appendix 1	Tender Report available in closed version

AUDIT TRAIL

Lead Officer	Dave Markham, Direct of Asset Management
Report Author	Thandi Gonzales, Project Co-ordinator

Version	Final	
Dated	8 March 2018	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Cabinet	N/a	N/a
Date final report sent to Constitutional Team		19 March 2018

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

Contract Name	Works Contract for the New Homes Delivery programme – Ivy Church.
Contract Description	Works Contract for the New Homes Delivery programme –Construction of 21 social rented units
Contract Type	Works
Lead Contract Officer (name)	David Markham
Lead Contract Officer (phone number)	0207 525 7201
Department	Housing & Modernisation
Division	Asset Management
Procurement Route	OJEU Restricted procedure
EU CPV Code (if appropriate)	N/A
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed Price
Supplier(s) Name(s)	Aspen Build (East Anglia) Limited
Contract Total Value	£5,555,148
Contract Annual Value	N/A
Contract Start Date	02/07/18
Initial Term End Date	01/07/20
No. of Remaining Contract extensions	N/A
Contract Review Date	N/A
Revised End Date	N/A
SME/ VCSE (If either or both include Company Registration number and/or registered charity number)	N/A
Comments	
London Living Wage	Yes

This document should be passed to the member of staff in your department responsible for keeping your departmental contracts register up to date.