

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date</b> 11 November 2021	<b>Decision Taker:</b> Strategic Director of Housing and Modernisation
<b>Report title:</b>		Gateway 2 - Approval for the procurement of Nunhead Lane contract works	
<b>Ward(s) or groups affected:</b>		The site is within Rye Lane ward and faces Peckham Rye ward	
<b>From:</b>		Director of New Homes Development	

### RECOMMENDATION(S)

The Strategic Director of Housing and Modernisation:

1. Approves the award of works contract for Nunhead Lane, appointing Building Associates Limited at a contract sum of £2,793,207 and including associated on costs and a contingency sum details of which are noted in the closed report, with a commencement date from 5 February 2022 for a fixed period of 56 weeks.
2. Notes that no green space will be lost as a result of this development.
3. Notes that the scheme benefits from £100,000 per unit grant subsidy from the Greater London Authority.
4. Notes that the scheme benefits from £21,720 grant subsidy from the small sites funding programme from the Greater London Authority.
5. Notes that once this has been subtracted, the total cost to the council of delivering this development is £202,114 cost per unit.
6. Notes elements of the scheme will consider low carbon options to ensure we are contributing towards the council commitment to be carbon neutral by 2030.

### BACKGROUND INFORMATION

7. Planning permission was granted on 19 September 2017 for 12 council homes for council rent. The units will be provided within two blocks, consisting of: 1 x four storey block containing 10 x flats (1x 1 bed wheelchair flat, 2 x 1 bed and 7 x 2 bed flats) (Block A) and 2 x two storey, 3 bedroom houses to the rear (Block B). Associated landscaping works will also be carried out.
8. The planned procurement strategy was the subject of a Gateway 1 report which was approved by the Strategic Director of Housing and Modernisation on 19 September 2016.
9. The September 2016 Gateway 1 report related to all procurements that were to be undertaken below the PCR threshold.

10. The September 2016 Gateway 1 report proposed procuring works contracts through undertaking a tender exercise using the council's Approved Work List.
11. The procurement exercise has been undertaken twice using the same specification but these did not result in scheme being delivered so the scheme has been retendered.
12. The scheme was retendered on 2 June 2021, and contractors were selected from the safe contractors list. The specification remained the same. The scoring ratio was adjusted to 65/35/5 price/quality/social value and was approved by the
13. The procurement strategy relates to the council's 11,000 new homes programme.
14. The tenders were invited on the basis of the JCT Design & Build Contract 2016 with Southwark amendments, our Employers Requirements and the Stage 4 scheme design.
15. The works contract will be for a fixed period of 56 weeks from date of the transfer of site possession from the council to the contractor. This includes a four week mobilisation period.

### Procurement project plan

16. See table below:

Activity	Completed by/Complete by:
Forward Plan for Gateway 2 decision	20/10/2021
Briefed relevant cabinet member (over £100k)	20/09/2021
Approval of Gateway 1: Procurement Strategy Report	16/10/2017
Invitation to tender (retender)	02/06/2021
Closing date for return of tenders (retender)	13/07/2021
Completion of evaluation of tenders (retender)	18/08/2021
DCRB Review Gateway 2 (original tender)	20/10/2020
Notification of forthcoming decision – Five clear working days	04/11/2021
Approval of Gateway 2: Contract Award Report	15/11/2021
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	25/11/2021
Debrief Notice and Standstill Period (if applicable)	08/12/2021
Contract award	20/12/2021
Add to Contract Register	20/12/2021
Contract start	28/02/2022
Publication of award notice on Contracts Finder	28/12/2021
Contract completion date	28/05/2023

## KEY ISSUES FOR CONSIDERATION

### Description of procurement outcomes

17. The procurement has enabled one contractor to be selected who will help ensure that the scheme can be delivered, and for best value. This contractor has been selected from the Council's Works Approved List.
18. The employers agent tender report concludes that the tenders received are within a reasonable parameter their expectations when compared with projects of a similar size, complexity and location. Their assessment is that the tenders demonstrate value for money. The tender sum presents a small risk that will be managed by enforcement of the contract in terms of quality and cost. The tender sums is broken down as below

Contractor	Tender Sum	Cost Per Unit (net of grant)	Cost Per m2
Building Associates Limited	£2,793,207	£202,114	£2677

### Key/Non Key decisions

19. This report deals with a key decision.

### Policy implications

20. The development of these 12 new homes aligns 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

21. The New Homes delivery Team procured this works contract from the Council's Works Approved List to ensure that opportunities were given to local small to medium size contractors. The council approached a number of companies through a soft market testing exercise to ensure that should they be invited they would be willing and capable of submitting a tender. In total five contractors were invited to tender.
22. All five firms confirmed they were interested in tendering and approval was sought from the Director of New Homes to tender this contract.
23. The tendering exercise was undertaken using the Council's e-procurement system.
24. The closing date for the tenders was on the 13 July 2021 and four tender submissions were received. Tender submissions were first reviewed on the 18 July 2021.

25. The quality submissions of each tender were evaluated by council officers and a representative from Robinson Low Francis (appointed as Employers Agent for the project and Quantity Surveyor). A consensus scoring method was used during this evaluation.
26. The price and contract sum analysis were examined by Robinson Low Francis (appointed as Quantity Surveyor for the project). Financial checks on each tenderer were completed by the council's Finance department.

**Tender evaluation**

27. The tenders were evaluated on the basis of a 65/30/5 price/quality and social value split, which is a deviation from the GW1 procurement strategy 70:30 split between price and quality.
28. The deviation from the intended 70:30 split between price and quality was a decision made by the Director of New Homes because of market conditions and recent experience and the GW1 made reference that the intended price/quality split may change.
29. 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. Experience 6%
  - b. Quality and Value for Money 6%
  - c. Capacity and Resourcing 6%
  - d. Health and Fire Safety 6%
  - e. Project Specific 6%
  - f. Social Value 5%
30. The questions within the quality assessment were weighted equally and detailed in the tender evaluation assessment criteria included within the tender documents.
31. Only four out of the five firms invited to tender submitted a tender. It is currently a buoyant market and it is believed that contractors are being more selective on the schemes they bid for.
32. The successful tenderer was Building Associates. The combined scores achieved by Building Associates are as follows:

Contractor	Quality	Social Value	Price	Total
Building Associates	16.80%	2.60%	65.00%	84.40%

33. A full breakdown of quality, social value and cost scores for tenderers is provided in the closed report and associated appendices.

**Plans for the transition from the old to the new contract**

34. Not applicable as not a transition to a new contract.

**Plans for monitoring and management of the contract**

35. The project management, including the management and administration of the contractor appointment will be run and resourced through the New Homes Delivery Team in the New Homes Division of the Housing & Modernisation Department. Performance of the construction 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 reviewed monthly and updated
- Monthly site meetings and monthly progress reports
- Monthly financial statements by the contractor and verification by the Employers Agent
- Monthly reviews of progress on site against programme
- Weekly quality inspections carried out by a clerk of work and a report on construction progress and 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
- Annual monitoring reports in line with contract standing orders (CSO).

36. Payment will be made monthly on the basis of a valuation that has been verified and agreed by the Employer's Agent.

37. 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**

38. As noted in the closed report.

RISK		RISK LEVEL	MITIGATION ACTION
1.	Project cost overruns	Low	The form of contract used for this project is a JCT Design and Build 2016 contract and the contract sum is all-inclusive subject to any provisional sums and future variations. All the surveys which the council anticipates will be necessary have been carried out which should help mitigate against there being any unforeseen site conditions or abnormalities. Any future variations will be fully scrutinised, justified and costed by the Employer's Agent prior to instruction. Value engineering will take place where necessary to ensure that the budget is achieved.

2	Contractor seeks 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.
3	Covid-19	Medium	At time of writing there could still be supply chain delays, labour shortages and new methods of working that may impact upon timescales for delivery. This will be monitored together with national and local guidance on policy and supply chain activity.
4	Procurement process	Low	Risk of challenge is mitigated as procurement process has been followed in line with CSOs, and through the council's works approved list as the value is below PCR thresholds.
5	Post Brexit impact	Medium	<p>Potential risk with availability of labour and materials. Potential impact to the works programme and cost. Southwark will enter into a fixed price contract with the contractor. There are no fluctuations permitted in the contract to allow the contractor to claim additional costs for materials or labour. The UK left the EU on the 31 January 2021 so the tenders were received post Brexit. As such, the tendered rates are deemed to include any price increases relating to Brexit.</p> <p>The programme will be fixed as soon we enter into contract with the contractor so the council's risks are reduced/mitigated as soon as the contract is signed.</p> <p>If materials/products are not available because of new EU restrictions, the council will need to take a pragmatic view and consider any alternative products that the contractor may offer.</p>
6	Appointing Building Associates	Low	The council has not previously worked with Building Associates and as this is the first time there is an element of risk. However Building

			<p>Associates have experience of JCT Design and Build contract. The provisions of the contract will be managed by and experience EA to ensure risks on site are mitigated.</p> <p>Quality and costs will be monitored by the project to team to ensure that risks are mitigated.</p>
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**Other considerations (For Housing Department works contracts only)**

39. London Borough of Southwark 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**

40. 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.

41. 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.

42. The proposals to increase the supply of affordable, good quality homes will benefits households in need from all Southwark communities, and will increase the housing options available to older people and people with disabilities.

43. 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 at least 50% of these homes will be let to existing tenants from the local area subject to an agreed local lettings policy.

44. 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.

**Equalities (including socio-economic) impact statement**

45. The contractor will be required to adhere to the council’s equality and diversity policies

46. The new affordable homes will be available to people on the councils housing waiting list. The council’s equality and diversity policies will be adhered to during the letting process.

## **Health impact statement**

47. The provision of 12 new quality homes provides a positive impact on health inequalities, as the scheme is designed to London Design space standards that will contribute towards addressing health inequalities. This scheme is delivering two houses which will benefit families living in overcrowded accommodation and will improve their overall quality of life. As 50% to 100% of the new homes will be allocated to existing residents/those in housing need in the borough, residents who are living in overcrowded conditions, or unsuitable housing will benefit. In addition to this rent levels are set at council rent, that are lower than London Affordable rent levels and market rent levels making them genuinely affordable. Health and wellbeing are further addressed by providing residents with individual balconies for outdoor space, along with communal landscaping.
48. 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

## **Climate change implications**

49. The development will comply with Building Regulations Part L that addresses the conservation of fuel and power, and guarantees eco-friendly efficient properties and minimise carbon emissions, as part of a drive towards a greener future.
50. The contractor will be encouraged to use sustainable materials as a way to lower carbon emissions.
51. The Council has declared a climate emergency. By delivering sustainable homes and investing in high quality and well-designed buildings and estates, the council aims to achieve positive impacts that will benefit the environment and increase the stock of environmentally friendly buildings within the borough.
52. As part of the design development process, there will be a requirement for environmental assessments to be completed, with a view to identifying the impact of any proposed development.

## **Social Value considerations**

53. 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.
54. The council's approach to procurement of design, development and construction process will ensure a requirement to maintain and improve the sustainability of the project.

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.

56. The contractor's social value offer includes the following:

Building Associates will be participating in a local employment and training initiative in line with the Southwark Economic Wellbeing Strategy 2012-20. Building Associates pledged to employ local subcontractors where possible, use labour and shall offer one apprenticeship. Building Associates has confirmed they will provide equality, diversity and inclusion training for their staff and subcontractors; to support local community projects focusing on local 'clean and green' activities in and around the estate.

### **Economic considerations**

57. 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.

58. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. The Gateway 1 report dated 6 June 2016 confirmed for the reasons stated in that report, payment of LLW was an appropriate and best value requirement for this contract. Building Associates has confirmed that they will meet the LLW requirements. Following award, quality improvements and cost implications linked to the payment of LLW will be monitored as part of the contract review process.

### **Social considerations**

59. The new housing will provide high quality affordable housing for local people in need of accommodation. Under our current local lettings policy, at least 50% of these new council homes will be let to tenants in housing need in the immediate area. However, consultation is being undertaken with residents about a new local lettings policy, which could mean that up to 100% of new council homes are let to local residents. The remainder will be made available to other households in need of accommodation from the council's housing register.

60. The new rented homes will be let at social rent levels.

61. The council can exclude companies who break the law by blacklisting or have not put into place genuine actions concerning past black listing activities. The council can require "self cleaning" which enables a potential contractor to show that it has

or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide evidence that the measures taken by the economic operator are sufficient to demonstrate it has:

- “owned up”: clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities.
- “cleaned up”: taken concrete technical, organisational and personal measures that are appropriate to prevent further criminal offences or misconduct, and
- “paid up”: paid or undertaken to pay compensation in respect of any damage caused.

62. The council has requested the necessary information from Building Associates (using the council’s standard documentation in relation to blacklisting) and they have confirmed that they are not in breach of the requirements under Regulations 3(1) of the Employment Relations Act 1999 (Blacklisting) Regulations 2010. The contract conditions also include an express condition requiring compliance with the Blacklisting Regulations and include a provision to allow the contract to be terminated for breach of these requirements.

63. The Council has declared a climate emergency. By delivering sustainable homes and investing in high quality and well-designed buildings and estates, the council aims to achieve positive impacts that will benefit the environment and increase the stock of environmentally friendly buildings within the borough.

64. As part of the design development process, there will be a requirement for environmental assessments to be completed, with a view to identifying the impact of any proposed development.

### **Market considerations**

65. The market for construction related consultancy services is good. Five were invited to tender and four responded. This level of response is considered to be good.

### **Staffing implications**

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

### **Financial implications**

67. The value of the contract arising from the procurement described in this forms part report of a wider programme. The associated on costs include contingency routinely added to all design and build contracts to cover unknown risks. Full details of the financial implication are included in the closed report.

68. The costs of delivery of new council rented homes will be financed from resources supporting the housing investment programme, including borrowing if required

69. The costs of the new delivering new council rented homes will be funded partly from the Greater London Authority. The council will receive grant funding at £100K per unit and from HRA resources including borrowing.

### **Investment implications**

70. The costs of this contract will be charged to the respective project cost 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)**

71. A FAME Credit check has been undertaken, which details that the company is secure and has a low risk of failure.

### **Legal implications**

72. Please see concurrent from the Director of Law and Governance

### **Consultation**

73. Local residents will be consulted at each stage of the development of each project as outlined in the Charter of Principles agreed by Cabinet in November 2014.

### **Other implications or issues**

74. Not applicable

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance**

75. The report seeks approval from the Strategic Director of Housing and Modernisation to award the works contract for Nunhead Lane, appointing Building Associates Limited to construct 12 new social homes at a contract sum of £2,793,207.

76. Full details of the financial implications and associated funding are detailed in the Closed version of the report.

### **Head of Procurement**

77. This report seeks approval from the Strategic Director of Housing and Modernisation to award the contract for Nunhead Lane, to Building Associates Limited for the sum of £3,647,084 including contingency for a period of 56 weeks from 5 February 2022.

78. The Strategic Director of Housing and Modernisation notes that paragraphs 19 to 32, contract monitoring and management in detailed in paragraphs 34 to 36, risks are detailed in paragraph 37, paragraphs 44 to 51 detail the impacts on equalities, health and climate, social value commitments are detailed in paragraphs 54 to 55 and confirmation of the payment of the London Living Wage is detailed in paragraph 57.

**Director of Law and Governance**

79. This report seeks the approval of the Strategic Director of Housing and Modernisation to the award of the works contract for Nunhead Lane to Building Associates Limited as further detailed in paragraphs 1 and 2. At this contract value, the relevant chief officer may take the decision.

80. Contract Standing Order 4.3 requires that for contracts of £100,00 or more to below the Public Contract Regulation threshold of £4.7m, then there is a requirement to take all reasonable steps to obtain at least five tenders, and those invited must be selected from the council's works approved list. As noted in paragraphs 18 and 21, five contractors were invited to tender from the approved list and four bids were submitted. Using the evaluation methodology set out in the invitation to tender, the council has identified Building Associates Limited as having submitted the most economically advantageous tender, and they are therefore recommended for award.

81. The Strategic Director's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, which requires public bodies to have regard, when making decisions, to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The Strategic Director is specifically referred to the community, equalities (including socio-economic) and health impacts at paragraphs 38-46, setting out the consideration that has been given to equalities issues which should be considered when approving the recommendations in this report.

82. Contract Standing order 2.3 requires that no steps are taken to award a contract unless the expenditure involved has been included in approved estimates, or is otherwise approved by the council. Paragraphs 65-68 confirm the financial implications of this award.

**Director of Exchequer (for housing contracts only)**

83. n/a

**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 (and as otherwise recorded in Part B below).



24 November 2021

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 that are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available (see 'FOR DELEGATED DECISIONS' section of the guidance).

<b>1. DECISION(S)</b>
As set out in the recommendations of the report.
<b>2. REASONS FOR DECISION</b>
As set out in the report.
<b>3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION</b>
Not applicable.
<b>4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION</b>
none
<b>5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST</b>
<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
<b>6. DECLARATION ON CONFLICTS OF INTERESTS</b>
<b>I declare that I was informed of no conflicts of interests.*</b>  <b>or</b>  <del><b>I declare that I was informed of the conflicts of interests set out in Part B4.*</b></del>
(* - Please delete as appropriate)

## BACKGROUND DOCUMENTS

Background documents	Held At	Contact
n/a		

## APPENDICES

No	Title
n/a	

## AUDIT TRAIL

<b>Lead Officer</b>	Stuart Davis, Director of New Homes Development	
<b>Report Author</b>	Thandi Gonzales, Project Manger	
<b>Version</b>	Final	
<b>Dated</b>	11 November 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Governance	Yes	Yes
<b>Cabinet</b>	n/a	n/a
<b>Date final report sent to Constitutional Team</b>		24 November 2021