

<b>Item No:</b>	<b>Classification:</b> Open	<b>Date:</b> 12 January 2021	<b>Decision Taker:</b> Strategic Director of Housing and Modernisation
<b>Report title</b>	Gateway 2 – Kinglake Estate (old) QHIP 2021/2022		
<b>Ward(s) or groups affected</b>	Faraday		
<b>From</b>	Head of Investment		

## RECOMMENDATIONS

1. That the Strategic Director of Housing and Modernisation approves the award of the **Kinglake Estate (old) QHIP 2021/2022** call-off contract via a mini-competition from the Major Works Constructor Framework to Durkan Limited for a period of 61 weeks from 4 April 2022 for the sum of £4,776,156.

## BACKGROUND INFORMATION

2. In October 2015, Cabinet approved the establishment of the Major Works Constructor Framework ('the framework') for a period of four years from 1 March 2016 in the four Lots as follows:
  - a. Lot 1 - Main building works (low value schemes up to £3.5m)
  - b. Lot 2 - Main building works (high value schemes over £3.5m)
  - c. Lot 3 - District mains, boilers and internal works
  - d. Lot 4 - Communal and electrical works
3. The framework contracts for Lot 1 and Lot 2 (applicable to this scheme) were extended in February 2021 for a period of 12 months from 16 February 2021 to 15 February 2022.
4. It was noted to Cabinet that the Strategic Director of Housing and Modernisation will take the decisions for works being instructed through the framework in line with his scheme of delegation and approval was obtained for exemption from Contract Standing Order 4.5.2(h) requiring consideration of approval reports by the relevant Departmental Corporate Review Board (DCRB) for works being instructed through the framework.
5. The framework supports and works alongside the council's three existing major works partnering contracts ('partnering contracts') but more specifically, undertakes work in contract areas 1 and 2 where the partnering contracts were mutually concluded. It should be noted that 2

of the 3 partnering contractors act as reserve contractors for contract areas 1 and 2. The partnering contracts for contract areas 3, 4 and 5 are now in place until 15 February 2022 and have non-exclusive extensions in place with termination at will clauses. However, mini-competition through the framework will be used where there are no partnering contracts in existence.

6. The scope of works for this scheme includes roof repairs / renewal, fabric repairs, rainwater goods and drainage repairs, window repairs, front entrance door upgrades/ replacements, external decorations, kitchen and bathroom replacements, fire safety works and electrical upgrades in tenanted properties as applicable, landlord electrical works as applicable.
7. Lot 2 is applicable to these works.
8. The duration of the works is 61 working weeks.
9. Works are expected to start on 4 April 2022 and complete on 29 May 2023.

### Procurement project plan (Key Decision)

Activity	Completed by/Complete by:
Forward Plan for this Gateway 2 decision	31/01/2022
Approval of Gateway 2: Establishment of major works framework agreement	20/10/2015
Notice of Intention (Applies to Housing Section 20 Leaseholder Consultation)	15/03/2021
Mini competition invitation	16/06/2021
Closing date for return of tenders	04/08/2021
Completion of evaluation of tenders	24/09/2021
Notice of Proposal (Applies to Housing Section 20 Leaseholder Consultation)	15/12/2021
Notification of forthcoming decision – Five clear working days	10/01/2022
Approval of Gateway 2: Mini competition award report	17/01/2022
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	24/01/2022
Contract award	01/02/2022
Add to Contract Register	01/02/2022
Contract start	04/04/2022
Publication of award notice on Contracts Finder	04/04/2022
Contract completion date	05/06/2023

## KEY ISSUES FOR CONSIDERATION

### Description of procurement outcomes

10. This scheme consists of works to blocks on the Kinglake Estate in the Walworth area. This includes 55 leasehold properties and two Right to Buy (RTB) applicants. The address details are as follows:

Block Address
Barham House, Kinglake Street 1-30(C)
Bethersden House, Kinglake Street 1-30(C)
Keston House, Kinglake Street 1-50(C)
Ifield House, Madron Street 1-12(C)
Hadlow House, Kinglake Street 1-20(C)
Swanley House, Kinglake Street 1-30 (C.)
Tenterden House, Kinglake Street 1-20(C)
Faversham House, Kinglake Street 11A & 22A, 1-28(C)
Leysdown House, Madron Street 1-49(C)
Southborough House, Kinglake Street 1-30(C)

11. The key work elements are as follows:

<b>Element</b>
Preliminaries:
Access
Roof Works
Rainwater Goods
Brickwork Repairs
Concrete Works
Balconies
External Decorations
Communal Walkways
Windows
Doors
Kitchens
Bathrooms & WC
Electrical
LD2's
Fire Safety Works
Provisional Sums

## **Policy Implication**

12. This report relates to the delivery of the council targets contained in the “Southwark Housing Strategy to 2043” and the commitments of the Borough Plan.
13. This scheme is designed to deal with work to meet the Quality Homes Investment Programme (QHIP) which includes works to maintain decency and deliver the council's commitment to a quality kitchen and bathroom.
14. Planning consent is not required for the works being undertaken within this scheme.
15. As part of the overall procurement process for this framework, Durkan Ltd were assessed and indicated compliance with the council's equal opportunities policy. This scheme is for works to the housing stock and will benefit all residents in the blocks affected.
16. This report confirms that, where applicable, this scheme is designed in compliance with the council's design specification as included in the overall procurement process for the framework and the council's Fairer Future Procurement Framework.

## **Decent Homes**

17. Once all works are completed under this scheme, all properties will achieve the Government's Decent Homes standard.

## **Mini competition Process**

18. The call-off arrangements set out in the 'operation of the framework' document was followed and a mini-competition procedure was carried out.
19. As the scope of this work is of a nature where charges can be recovered from leaseholders under section 20 of the Landlord and Tenant Act 1987, leaseholder consultation was carried out. The council did not receive leaseholder nominations.
20. All contractors listed on Lot 2 were invited to participate in the mini-competition process with instructions to return the tender by 1pm on 4 August 2021. The list of contractors invited is as follows:
  - Contractor A
  - Durkan Ltd
  - Contractor B
  - Contractor C
  - Contractor D

21. All 5 contractors returned a tender.

### **Mini-competition Evaluation**

22. The tenders were evaluated in line with the rules set out in the framework.

23. Representatives from Potter Raper Limited (formerly Potter Raper Partnership) (PRL) and the investment team participated in the tender evaluation process which involved checking whether all requirements set out in the checklist were met and assessment of price and quality specific to this scheme.

24. All tenderers were required to complete and confirm that they meet the requirements set out in the checklist. The checklist was satisfactorily completed by all tenderers.

25. The quality element of the submissions was assessed on a pass/fail basis.

26. The quality criteria for these works were as follows:

- Resources and management of call-off contract
- Management of sub-contractors
- Health and Safety (H&S) proposals for the call-off contract
- Access provisions

27. The quality submissions were scored using a 1 – 3 scoring system as set out in the 'operation of the framework' document. At this stage, tenderers were required to meet a minimum threshold of 3. If they failed to meet this standard, they were not assessed any further in this process. All tenderers achieved the threshold 3.

28. The results of the quality criteria assessments were as follows:

<b>Contractor</b>	<b>Pass/Fail</b>
Contractor A	Pass
Durkan Ltd	Pass
Contractor B	Pass
Contractor C	Pass
Contractor D	Pass

29. Tenderers were required to complete a scheme specific schedule of rates. The price evaluation included the pricing of an actual works package plus rates for composite items. Separately tendered percentages applied to overheads and profit. The costs obtained for this scheme are based on the rates tendered within the framework. This does

not preclude the contractor from offering a lower rate than the framework tender.

30. Prices were sought from contractors within Lot 2.
31. All priced documents submitted were checked for arithmetical errors and general compliance with the tender requirements by PRL.
32. The council's appointed quantity surveyor has confirmed that the pricing has been checked in line with the framework's schedule of rates and confirmed that they are a combination of equal to or lower than the rates set out on the framework.
33. Therefore, on the basis of the mini-tender submitted, the contractor recommended for this scheme is **Durkan Ltd**

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

34. The performance of the framework contractors is monitored and managed by the investment team in accordance with the framework. Each project manager in the investment delivery team or other departmental officers provide a quarterly monitor on the performance of the framework contractors on the schemes they are working on as the framework contractors are expected to achieve certain targets set out in the Key Performance Indicators (KPIs) around the areas of time, cost and quality.
35. The framework contractors are monitored against these KPIs on a regular basis as if the framework contractors fail to perform to the required standard, their 'call-off' contract(s) can be terminated, their mini-competition opportunities can be restricted or they can be removed from the framework.
36. It is confirmed that Durkan Ltd has had no contracts terminated, no mini-competition opportunity exclusions and they have not been removed from the framework for Lot 2.
37. These 'call-off' contracts, whilst predominantly design and build contracts, have all design and work proposals examined and checked by both internal lead designers and cost consultants or by one of the council's professional technical services consultants, Calfordseaden LLP or PRL. It is confirmed for this scheme that the lead design services will be provided by PRL and cost management by PRL.
38. The spend and performance is monitored by the head of investment and reported each quarter to the major works core group led by the Deputy Leader and Cabinet Member for Council Homes and Homelessness, the Housing Investment Board led by the Strategic Director of Finance and Governance. Performance reports will be prepared and presented in line with Contract Standing Orders.
39. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate

details of this procurement are added to the contract register via the eProcurement System.

### Health and Safety Plan

40. The CDM 2015 regulations require a developed health and safety plan to be in place prior to commencement of works and the appointment of the principal designer at scheme inception. It is confirmed that the principal designer role will be provided by PRL. Works will not commence on site until it is confirmed that the health and safety plan is sufficiently developed for the type of works proposed. This will include updates to reflect the Government's current Covid-19 measures and ensure that all areas have been covered for the safety of operatives and the general public, such as transport; training procedures; welfare facilities; site monitoring & supervision; PPE and waste management, as well as action to be taken if compliance is not followed.
41. An extra method statement will be requested from Durkan Ltd, after approval of report and referenced in the letter of award, to explain how they will manage the site during Covid-19 in line with the CLC's Site Operating Procedures (SOP) and how they will make assurances as to standards of health and safety on site.
42. The council will be including the new contract clauses required due to Covid-19 health and safety requirements into this contract at the award stage as part of the award letter instruction.

### Identified risks for the new contract

43. The table below identifies a number of risks with this procurement, the likelihood of occurrence and the controls in place to mitigate the risks:

R/N	Risk Identified	Risk Rating	Mitigation
R1	Procurement risk	Low	The council will ensure compliance with the framework Call-off terms.
R2	The contractors fail to deliver works.	Medium	Monitoring in place as detailed in paragraphs 34 to 39 of this report
R3	Risk of challenge by leaseholders.	Medium	Statutory Consultation with leaseholders has been carried out.
R4	Framework contractors cease trading, go into administration/liquidation.	Medium	Appropriate financial checks will be undertaken prior to the contract award. Review contractors' financial standing pre and post the scheme tendering.
R5	Covid-19 pandemic	Medium	Monitor updates on government guidance. Review of working practices for construction sites operating social distancing measures

R6	Brexit implications	Medium	Officers will monitor government guidance as this may have an impact around skills shortages, import and export of material and potential changes to regulations and standards
----	---------------------	--------	--

### **Leasehold Implications**

44. Formal legal consultation with leaseholders has been undertaken by the council's specialist housing services team.

### **Community, equalities (including socio-economic) and health impacts**

#### **Community impact statement**

45. Improving housing in Southwark, the largest social landlord in London, is central to the council's wider plans to create a fairer future for all. Access to appropriate, good quality, genuinely affordable homes is important not just for residents but also to the wider economy and essential to shaping a borough that all residents can be proud of and which is truly sustainable into the future. A key part of this is the active management of current council housing assets that this report addresses in relation to investment through major works at Kinglake Estate.
46. Residents may experience some inconvenience and disruption in the short-term, while works are taking place but the community as a whole will benefit in the longer term. These impacts will be mitigated by working closely with residents on the delivery process and using experience gained on a significant number of previous projects. Residents will continue to be at the centre of and involved in works that take place. Where financially viable other positive community impacts will also be included as part of any proposed works.
47. Any works undertaken will provide a better standard of accommodation for residents and will contribute to improved general health and wellbeing. Due consideration will be given to those residents with specific needs both during works and after completion.

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

48. The Public Sector Equality Duty requires public bodies to consider all individuals when carrying out their day-to-day work, in shaping policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.

49. As set out under the Equality Act 2010 and the Public Sector Equality Duty (PSED) an equalities impact assessment has been carried out. Overall, the scheme should have a positive impact on groups that are protected under the Act.
50. Major investment in the council's housing stock, while resulting in a better standard of homes and estates for residents can also cause high capital charges in the short term which would normally be passed on to homeowners. Due consideration has been given to ensure these charges are kept to a reasonable level and the appropriate statutory process has been followed.

### **Health impact statement**

51. Without undertaking the type of works described in this document to invest in the council's housing stock, residents will face increasing issues with both the internal and external aspects of their properties. Vulnerable residents will be particularly disadvantaged by any failures to components, installations or the supply of energy to power their homes. People with certain disabilities, the elderly and the very young are particularly vulnerable to such issues. Economically disadvantaged households often have fewer resources available to them to deal with the impacts of poor standards of housing. Health issues and socio-economic issues are deeply intertwined and the council is committed to the provision of a high standard of housing for all its residents through targeted investment.

### **Climate change implications**

52. On 18 June 2019, the council's cabinet agreed the resolution passed by the council Assembly on 27 March 2019 to "declare a Climate Emergency and do all it can to make the borough carbon neutral by 2030." The cabinet noted "that there are considerable financial savings to be made by 'going green', whether it be more energy efficient lighting, smart meters at council properties, or piloting energy generation schemes such as installing solar panels on council properties".
53. The government estimates that residential buildings account for 27% of Southwark's carbon emissions. The council's direct emissions account for 12% of the borough's emissions and council housing is the second largest contributor to carbon emissions at 14%. The council therefore plans to take targeted actions across energy supply and usage and to retrofit council buildings including council homes to make them greener.
54. All major works schemes will explore opportunities to reduce carbon emissions during the design process. Contained within the scheme detailed above, the following measures have been agreed:
  - Procuring and using material sustainably
  - Selecting materials with low lifecycle impacts
  - Using local materials

- Use of materials with high recycling
- Meet minimum standards set out in Building Regulations

### **Social Value considerations**

55. 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**

56. By breaking the framework in to different Lots, this gave local medium sized firms the opportunity to tender for some of the work available in the Lots. The successful contractors for each call-off will bring local job opportunities for the community as well as tendering opportunities for local suppliers and sub-contractors. By making each contract borough wide, there will also be no concerns expressed about any area getting the benefits of cheaper rates.

### **Social considerations**

57. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, our contractors and subcontractors pay staff at a minimum rate equivalent to the LLW rate. The Gateway 1 report approved on 22 October 2013 confirms, for the reasons stated in that report, payment of LLW was an appropriate and best value requirement for this Framework offering enhanced quality of work from a motivated workforce and a lower staff turnover. All responses received either met or exceeded the LLW requirements. Following award of this call-off, quality improvements and costs implications linked to the payment of LLW will be monitored as part of each of the contract review processes

### **Environmental/Sustainability considerations**

58. The contract documents will ensure that the contractors have to comply with all the council's environmental requirements as regards, for example, timber usage, CO2 emissions and safer lorries.
59. This procurement process has ensured contractors who meet all these criteria and who are selected who will provide economic and social well-being through providing jobs, training and community benefits as well as meet statutory environmental standards and other council requirements such as the safer lorries requirements.

### **Staffing implications**

60. The staff resources deployed to this procurement is sufficient to meet the proposed timetable.
61. The project will be resourced by existing staff, within existing budgets.
62. Officer time relating to the management of this project is funded from the capital budget for individual projects.
63. Management of this project is funded from the capital budget for individual projects.

### **Financial Implications**

64. The Council is an end user for the purposes of section 55A VAT Act 1994 reverse charge for building and construction services. Notification of this will be included in the letter of award to Durkan Ltd so that Durkan Ltd can issue the council with normal VAT invoices, with VAT charged at the appropriate rate. The letter of award will confirm that the council will not account for the domestic reverse charge.
65. The works identified in this report form part of the Housing Investment Capital programme. The scheme will be funded from HRA available resources identified for the QHIP programme which includes leasehold contributions. In addition to the works cost, it is considered prudent to add a 5% risk contingency fund, as identified in paragraph 2 above, to the contract sum and professional fees to allow for any unforeseen issues. Any additional works will be agreed with the lead designer and project manager and any costs arising due to any unforeseen works will be agreed by the quantity surveyor.

### **Legal Implications**

66. It is confirmed that this scheme falls under Lot 2 and the 'call-off' contract to be used is JCT Intermediate Building Contract with Contractor's Design 2016. The contract documentation will be passed to legal services to formalise a contract for the scheme in due course.

### **Consultation**

67. Consultation meetings were held with residents on 12 November 2020 and on 15 Mar 2021 to discuss the scope of works. In addition, a virtual leaseholders meeting via Zoom was held on 6 December 2021 to discuss their contributions. All residents, the TRA and local councillors will be written to advise the commencement date of the works and a further meeting will be held.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance (H&M21/121)**

68. The report seeks approval from the Strategic Director of Housing and Modernisation for the award of the Kinglake Estate (old) QHIP 2021/2022 call-off contract via a mini-competition from the major works constructor framework to Durkan Ltd for the sum of £4,776,156.
69. Full details of the financial implications and associated funding are detailed in the Closed version of the report .

### **Head of Procurement**

70. This report seeks approval from the Strategic Director of Housing and Modernisation for the award of the Kinglake Estate (old) QHIP 2021/2022 works to Durkan Ltd for a period of 61 weeks from 4 April 2022 for the sum of £4,776,156.
71. The Strategic Director of Housing and Modernisation notes the procurement was via a call-off contract via a mini-competition from the major works constructor framework which is allowable under Public Contract Regulations 2015 and the council's contract standing orders.
72. The Strategic Director of Housing and Modernisation also notes the mini competition is detailed in paragraphs 19 to 33, management and monitoring of the contract is detailed in paragraphs 34 to 39, the risks are detailed in paragraph 43, the impact on equalities, health and climate change are detailed in paragraphs 48 to 54, confirmation of the payment of London Living Wage is in paragraph 57 and no specific social value commitments are included.

### **Director of Law and Democracy**

73. This report seeks the approval of the Strategic Director of Housing and Modernisation to the award of the Kinglake Estate (old) QHIP 2021/2022 call-off contract via a mini-competition from the Major Works Constructor Framework to Durkan Limited for a period of 61 weeks from 4 April 2022 for the sum of £4,776,156.
74. The Gateway 1 report approved the use of this framework agreement and therefore this procurement is in accordance with Contract Standing Orders.
75. The mini competition process and the tender evaluation are set out in paragraphs 19 to 33 of this report and how the contract will be monitored and managed are outlined in paragraphs 34 to 39.
76. The Strategic Director of Housing and Modernisation'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 45 to 51 setting out the consideration that has been given to equalities issues which should be considered when approving the recommendations in this report.

77. The climate change implications are in paragraphs 52 to 54 of this report. 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 otherwise approved by the council. Paragraphs 64 to 65 confirm the financial implications of this award, in particular, paragraph 65 confirms how the proposed contract will be funded.

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

78. These are works of repair and are therefore chargeable to leaseholders under the terms of their leases. There are 72 leasehold properties and 1 RTB property included in the contract that will be affected by the works. In accordance with the Landlord and Tenant Act 1985 (as amended) Notices of Intention were served on 11 February 2021 and the observation period ended on 24 March 2021
79. Section 20 notices of proposal were served on 11 November 2021 and expired on 13 December 2021. There were 4 observations received from leaseholders included in this package and they were responded to in writing. The observations were not of a nature that would impact on the commencement of these works.

**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).



21 January 2022

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 (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>
<b><del>I declare that I was informed of the conflicts of interests set out in Part B4.*</del></b>
(* - Please delete as appropriate)

\* Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the council is required to put in place a scheme for recording and publishing some officer executive decisions. This process is sometimes referred to as "Regulation 13(4)".

## BACKGROUND DOCUMENTS

<b>Title:</b>	<b>Held at</b>	<b>Contact</b>
Major works project file	Asset Management (electronically) 160 Tooley Street, SE1 2QH	Brian Checkley 020 7525 3848

## APPENDICES

<b>No</b>	<b>Title</b>
None	None

## AUDIT TRAIL

<b>Lead Officer</b>	Desmond Vincent, Head of Investment		
<b>Report Author</b>	Brian Checkley, Contract Manager		
<b>Version</b>	Final		
<b>Dated</b>	12 January 2022		
<b>Key Decision</b>	Yes	<b>If yes, decision date on forward plan</b>	
<b>CONSULTATION WITH OTHER OFFICERS/DIRECTORATES/CABINET MEMBER</b>			
<b>Officer Title</b>	<b>Comments</b>	<b>Comments Included</b>	<b>ght</b>
Strategic Director of Finance and Governance	Yes	Yes	
Head of Procurement	Yes	Yes	
Director of Law and Governance	Yes	Yes	
Director of Exchequer	Yes	Yes	
Cabinet Member	N/a	N/a	
<b>Date final report sent to Constitutional Officer</b>			21 January 2022