

Item No.	Classification: Open	Date: 10 December 2020	Meeting Name: Strategic Director of Housing and Modernisation
Report title:		Gateway 2 - Contract Award Approval Main Works for Flaxyard and Peckham Library Square	
Ward(s) or groups affected:		Peckham	
From:		Head of Regeneration - Capital Works and Development	

RECOMMENDATION(S)

1. The Strategic Director of Housing and Modernisation in consultation with the Cabinet Member for Housing approves the award of the design and build contract through the Notting Hill Contractors framework for the Bouygues (UK) Limited in the sum of £46,421,079.71 for a period of 116 weeks commencing on 7 January 2021.

BACKGROUND INFORMATION

2. The works are located across two sites namely Peckham Library Square and Flaxyard.
3. The Flaxyard site is split by the pedestrian section of Sumner Road, linking through to Peckham High Street. Sumner Avenue, Jocelyn Street and Melon Road wrap the site's western, northern and eastern edges respectively. The southern edge of the site is bordered with 3 to 4 storey Victorian buildings, which have their frontage to Peckham High Street.
4. Peckham Library Square part of the works is situated in front of the Library Square between 71-89 and 91-93 Peckham High Street, London, SE15 5RS.
5. The development work will be carried out in phases. Flaxyard will start on site in Spring 2021, and Peckham Library Square in Spring 2022.

Flaxyard overview

6. The works comprise the design and construction of 120-mixed tenure, social rent housing and intermediate residential dwellings across 3 separate blocks, along with a ground floor commercial unit to one block as a shell and core specification with associated ancillary hard and soft landscaping works within the site boundary.

Peckham Library Square overview

7. The nature of this site in relation to the proposed scheme lends itself to currently incorporating what was previously splitting this part of the works into two separate phases, namely:

- Demolition, site clearance and site preparation
 - Design & construction of main development works
8. This Phase incorporates both phases of the works and comprises the demolition and site clearance followed by design and construction of 19 mixed tenure residential units, a gallery space to a shell and core specification at Site 1 and a co-working space to a shell and core specification at Site 2:
- Site 1: Comprises the refurbishment of and a new build extension to existing buildings at 91 and 93 Peckham High Street, creating a mixed-use development, which combines a public gallery, offices/ shops and workspace to the ground floor with residential units above.
 - Site 2: Comprises a new building adjacent to the existing Kentish Drovers Pub at 71-79 Peckham High Street, creating a mixed-use development, which combines a co-working space on the ground floor with residential units above.
9. The Gateway 2 decision is delegated to the Strategic Director of Housing and Modernisation at Gateway 1 stage. The Strategic Director of Housing and Modernisation has consulted on the award with the Cabinet Member for Housing.
10. On the 20 October 2020 Cabinet approved a capital bid for a public realm scheme at Peckham Library Square as part of the Southwark Stands Together Programme. The ambition is to deliver a public realm project, which will demonstrate, the council's learning and development of best practice for community representation and engagement, including those who are often underrepresented in the community. Consultation will take place from early 2021.
11. This contract could be varied to include the new public realm scheme or be the subject of a separate procurement.

Procurement project plan (Key Decision)

12.

Activity	Completed by/Complete by:
Forward Plan for Gateway 2 decision	16/09/2020
Briefed relevant cabinet member (over £100k)	14/09/2020
Approval of Gateway 1: Procurement Strategy Report	16/07/2019
Invitation to tender	25/11/2019
Closing date for return of tenders	17/03/2020
Completion of evaluation of tenders	26/09/2020

Activity	Completed by/Complete by:
DCRB Review Gateway 2:	27/10/2020
CCRB Review Gateway 2:	05/11/2020
Notification of forthcoming decision – Five clear working days	09/12/2020
Approval of Gateway 2: Contract Award Report	18/12/2020
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	28/12/2020
Debrief Notice and Standstill Period	04/01/2021
Contract award	04/01/2021
Add to Contract Register	07/01/2021
Contract start	07/01/2021
Publication of award notice on Contracts Finder	07/01/2021
Contract completion date	30/03/2023

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

13. Based on the comments made within the body of this report and all the appendices to the report, the council would recommend that the adjusted tender offer submitted by Bouygues of £46,421,079.71 for the proposed work is acceptable. It offers good value for money across all aspects of the works as well as being, based upon the preferred approach for re-directing pedestrian, cycle and car traffic through the library square and to the west of the Peckham Pulse car park. Bouygues have proposed viable methodology for the re-routing of car traffic, pedestrians, and cyclists.

Key/Non Key decisions

14. This report deals with a key decision.

Policy implications

15. The council has an ambitious target to deliver 11,000 new council homes by 2043, with the first 2,500 by 2022. Flaxyard and Peckham Library Square will provide 102 new council homes, 27 shared ownership homes and 10 private homes, along with employment floorspace. The Council has also recently approved Peckham Library Square Public Realm as pilot project for engagement and consultation under the Southwark Stands Together initiative. The outcome of this consultation will be taken into account in the final scheme for the Square.

Tender process

16. The scheme was tendered by means of a single-stage competitive process, with invitations issued to a selection of contractors from the Notting Hill Genesis Framework.
17. Four tender invitations were issued on 26 November 2019 and were to be returned through the e-tender portal, by no later than 12 noon on Tuesday 17 March 2020 accounting for the extension of the initial tender period by four additional weeks.
18. All contractors were invited to attend a scheme presentation held at the council offices as well as a site visit with the project team at the Peckham Library Square and Flaxyard sites in order to familiarise themselves with the works prior to submitting their tender return.
19. During the tender period, a large number of queries were received from the tendering contractors, which were responded to by Martin Arnold (MA) who are acting as Employers' Agent, and the responses uploaded to the e-tender portal by the council.
20. Tender clarifications were subsequently issued via the e-tender portal on various dates and in accordance with the timeframes specified.
21. Tenders were received electronically via the council e-procurement portal proactis on Tuesday 17 March 2020.
22. Only three out of the four contractors that had initially expressed interest in tendering for the works confirmed their interest after the issue of the tender documents. One bidder did not take up the invites to attend the presentation and the site visits and withdrew their interest shortly after the tender documents had been issued due to the fact that it was a single stage process.

Tender evaluation

23. Tender returns were received from only two of the three contractors that had confirmed their interest in tendering for the works (Bidder A and Bidder B).
24. During evaluation certain aspects of the tender returns were clarified with both bidders, as permitted by the Invitation to tender (further details of which are noted in the closed report).
25. Officers then went back to tenderers to ask them to re-sequence the works. While the initial brief indicated an early start on Peckham Library Square, Peckham Library Square as a whole, was re-sequenced by the council with a new start on site proposed for May 2022. This then determined that the delivery of the council housing on the Flaxyard site could take priority with

anticipated commencement on site in April 2021 with the building contract execution proposed for November 2020.

26. A consequence of the above resequencing, any demolition works and any stripping out work to 91 & 93 Peckham High Street could now be included in the main works contract and would not require a separate enabling works contract. It was decided to mitigate any issues with coordination of an enabling works contract with the main works contract.
27. Final evaluation of the submitted tenders (taking into account the resequencing) was completed and the scoring is shown in table 1. Moderation of the evaluation has been undertaken. Bouygues have submitted the most economically advantageous tender and are therefore recommended for award.
28. The gateway 1 indicated a price: quality split of 70% for the price submission and 30% for the qualitative submission, however prior to tender being invited officers sought approval from the Strategic Director of Housing and Modernisation to change to 60:40 as it was felt that more weight should be given towards quality to achieve a good quality.

Contractor	Price Score 60%	Quality Score 40%	Total Score 100%
Bouygues	60.00% (£46,421,079.71)	31.00%	91.00%
Bidder B	59.24% (£47,017,399)	30.20%	89.44%

Table 1: Scoring

Plans for the transition from the old to the new contract

29. None.

Plans for monitoring and management of the contract

30. The contract will be monitored and managed by the Project Manager and the Housing Regeneration Programme Manager. Martin Arnold Ltd will act as employer's agent.
31. The Project Manager will ensure that systems are in place to manage and monitor the contract in respect of at least:
 - a) Compliance with specification and contract
 - b) Contractor performance and KPIs
 - c) Budget and cost
 - d) User satisfaction
 - e) Risk management
 - f) Delivery of social value commitments, including London Living Wage.
32. Throughout the contract, the performance of the contractor and the contribution of the contractor to the achievement of the framework objectives shall be monitored and assessed by reference to the KPIs

incorporated into the contract. An annual monitoring report will be presented in line with council's contract standing orders (CSO).

Identified risks for the new contract

Risk No.	Identified Risk	Likelihood	Risk Control
1	Contractor ceases trading or goes into administration / liquidation	Low	<ul style="list-style-type: none"> • The council will discuss with the contractor as part of performance monitoring and reviews. • The council will set up a news alert with one of the credit agencies and credit check prior to award. • Advice received from framework provider. • The contract will include bonds, guarantees and retentions. • The council will ensure there are provisions/ indicators in the contract; that if the contractor is not performing/unable to deliver the council has the option to terminate. During construction the council will monitor onsite works for any signs the contractor may not be performing and will ensure interim valuations are undertaken precisely, so works are not over valued.

2	Mobilisation/ construction delayed and additional cost due to COVID-19 or Brexit.	Medium	<ul style="list-style-type: none"> • Bouygues are effectively operating other sites, following the Construction Leadership Council's Site Operating Procedures. • The council will keep programme and cost under review. Where Bouygues are both willing and able to continue operating, the council will support and be flexible with regards to timescales and cost. Where work has to be suspended the council will require comprehensive information as to how the site and materials will be protected.
3	Difficulty with supplies for materials due to COVID-19 or Brexit and additional cost	Medium	<ul style="list-style-type: none"> • Bouygues will start placing orders early. • The council has a 3.5% client contingency.
4	Un-safe working during COVID-19	Medium	<ul style="list-style-type: none"> • Bouygues must satisfy the council they can work safely. The employer's agent will carry out ongoing checks.
5	QR4 development pause, impact on viability	Medium	<ul style="list-style-type: none"> • The council will use Right to Buy receipts at £100k per social unit, an increase on the £40k per social unit grant rate from the GLA.

Community impact statement

33. Under the Equality Act 2010's Public Sector Equality Duty (PSED), as a public body the council must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity between different groups

- Foster good relations between different group
34. Pre-application consultation to determine relevant stakeholders and understand stakeholder needs has been undertaken. The council are engaging:
- Local residents
 - Local businesses
 - People who travel through Peckham Library Square
 - People who use the local businesses (Mountview, Peckham Library, Peckham Pulse Leisure Centre)
 - People who will visit the new Peckham Platform Art Gallery when it is complete.
 - Local disability groups
35. Bouygues will conduct surveys and questionnaires, and community profiling and public consultation events. The council will collaborate with Bouygues to minimise potential negative impact.

Social Value considerations

36. The Public Services (Social Value) Act 2012 requires that the council consider, 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

37. The gateway 1 indicated that the contract will commit the successful tenderer to the appointment of an apprenticeship for every £1 million value of the contract. However in line with the two unilateral undertaking documents, Bouygues will deliver at least six apprenticeship/ NVQ starts, train 23 borough residents using short courses and place 23 unemployed borough residents into sustained construction employment.
38. In the event that the targets in two unilateral undertaking documents have not been achieved to the satisfaction of the council, the contractor will pay a Construction Industry Employment and Training Contribution.

Social considerations

39. 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 dated 16 July 2019 confirmed, for the reasons stated in that report; payment of LLW/Real Living Wage was an appropriate and best value requirement for this contract. Bouygues has confirmed that they

already meet the LLW requirements. Following award, quality improvements and costs implications linked to the payment of LLW will be monitored as part of the contract review process.

Environmental/Sustainability considerations

40. Bouygues will hold monthly environmental inspections on site conducted by both site management and the environmental advisor, along with weekly progress meetings, both of which will feed into the site action plan for minimizing environmental impact.
41. Bouygues will also ensure all sites are registered with the Considerate Constructors Scheme and thoroughly comply with the scheme's accredited actions surrounding sustainability and minimising environmental impact.

Market considerations

42. Bouygues were asked to provide detail on how Covid-19 would affect their tender submission, supply chain and the delivery and programme for the works, at the post-tender meeting. Bouygues will have to factor in supply side issues and will start placing orders early. Bouygues are effectively operating other sites, following the Construction Leadership Council's Site Operating Procedures. The council has carried out recent financial checks.
43. Due to increase in rates and market considerations, the tender returns reflect the current market and it is very unlikely that retendering would result in a lower cost.

Staffing implications

44. The Project Manager is responsible for ensuring that the programme is adequately resourced and coordinated to deliver its objectives and procured efficiently and effectively in accordance with best practice for major projects procurement.

Financial implications

45. The cost of this procurement will be funded from resources to support the Housing Investment Programme including S106, borrowing and Right to Buy Receipts and also those supporting the General Fund as appropriate.
46. The gateway 1 cost estimate was £38.2m (June 2019). This was mid Stage 3 and the full impact of the council's employer's requirements had not been fully incorporated into the cost plan. The pre-tender cost estimate from the QS was £41.6m (October 2019). Martin Arnold have confirmed that the pricing information submitted by Bouygues is competitive. Construction costs have generally risen in the past year.
47. The cost of this procurement is £46.4m. Of this, £45.6m will form part of the Housing Investment Programme and £0.8m will form part of the General

Fund capital programme. For effective monitoring and reporting, costs will be coded to Flaxyard site (R-5014-0000.9) and Peckham Library (R-5014-0000.15) and a new General Fund code which will be set up once this report is approved.

48. VAT advice has been sought on this project.

49. The table below summarises costs by:

- Flaxyard
- Peckham Library Square
- Gallery

Build costs

Flaxyard	£37,069,528
Peckham Library Square	£8,578,793
Gallery	£772,759
Total	£46,421,080

50. The estimated sales receipts for the private units is £3.7m and the appraisal assumes all receipts coming in at practical completion. Sales values have been taken from the Southwark Housing Market Trends Bulletin and are considered to be conservative.

51. The estimated annual rental income for the commercial space including gallery is £125k.

Investment implications

52. Please see Strategic Director of Finance and Governance commentary below.

Legal implications

53. Please see concurrent from the director of law and democracy.

Consultation

54. In 2015 a feasibility study was undertaken for Flaxyard by Levitt Bernstein Architects which showed 120 new homes could be delivered on the site, along with commercial retail space. The council held their first public consultation in July 2015 presenting initial design proposals for feedback. The council held a second public consultation on line between March and April 2016 incorporating stakeholder/local resident feedback. Between June and September 2016 meetings were held with various local stakeholder groups. The council held a public exhibition in July 2016 presenting the final proposal for planning submission. The council

submitted a planning application in September 2016. In March 2017 the planning committee gave a resolution to grant planning.

55. The council held their first public consultation for Peckham Library Square in December 2014. Between December 2014 and November 2015 a series of public workshops were held which invited members of the local community to share their views on proposals to develop the site; feedback from these workshops was used to inform design proposals developed by Carl Turner Architects. In January 2015 the council held a second public consultation which gave the opportunity to present the revised designs back to the community. The council held a public exhibition in March 2015 presenting the final proposal that would be submitted to planning. The council submitted a planning application in July 2016. In November 2016 planning committee gave a resolution to grant planning.
56. The council will write to residents informing them of the hoarding erection date and anticipated start on site and will host an initial resident stakeholder meeting on site and introduce contractor /contractor Resident Liaison Officer (RLO).

Other implications or issues

57. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M 20/103)

58. This report seeks approval from Strategic Director of Housing and Modernisation in consultation with the Cabinet Member for Housing to award a design and build contract for the construction of new homes at Flaxyard and Peckham Library Square to Bouygues (UK) Limited for the sum of £46,421,079.71. The development will provide 102 new council homes, contributing towards the council's commitment to deliver 11,000 by 2043. It will also provide 27 shared ownership homes and 10 homes for private sale as well as a new Peckham Platform art gallery. The financial implications section of the report sets out how these costs are to be met, from both the Housing Investment and General Fund capital programmes.
59. There is an estimated resource shortfall for the Housing Investment Programme. There is also likely to be further demand on this programme and it is therefore important that the costs of these works are carefully monitored and that accurate forecasting is in place to enable efficient financing of capital expenditure over the life of the programme.
60. Any other variation or extension of the contract beyond the scope of this report will require further approval in line with the council's procurement protocols.

Head of Procurement

61. This report seeks approval from the Strategic Director of Housing and Modernisation in consultation with the Cabinet Member for Housing to award, the design and build contract through the Notting Hill Contractors framework for the construction of new homes at Flaxyard and Peckham Library Square to Bouygues (UK) Limited in the sum of £46,421,079.71 for a period of 116 weeks commencing on 7 January 2021.
62. These works were tendered as detailed in paragraphs 16 to 28 and in line with EU Public Contract Regulations 2015 and the council's contract standing orders (CSOs).
63. The risks are detailed in paragraph 33, monitoring and management of the contract is detailed in paragraphs 30 to 32.
64. Bouygues (UK) Limited confirm payment of London living wage (LLW) and social value targets of at least six apprenticeship/ NVQ starts, train 23 borough residents using short courses and place 23 unemployed borough residents into sustained construction employment.

Director of Law and Democracy

65. This report seeks the approval of the Strategic Director of Housing and Modernisation to the award of the design and build contract through the Notting Hill Contractors framework for the construction of new homes at Flaxyard and Peckham Library Square to Bouygues, as further detailed in paragraph 1. At the contract value, this approval would ordinarily be reserved to the cabinet; however as noted in paragraph 9, the award decision has been delegated to the Strategic Director in consultation with the Cabinet Member for Housing.
66. The nature and value of these works are such that they are subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR15). However, and as approved at Gateway 1 stage, the council undertook a further competition through the Notting Hill Genesis framework, which has been established following an EU compliant tendering process and allows other public bodies to use for their own requirements. The tendering requirements of the PCR15 are therefore satisfied by award through this further competition. The council using the evaluation methodology set out in the tender documents has identified the most economically advantageous tender has been submitted by Bouygues, who are therefore recommended for award.
67. 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 impact statement at paragraphs 34-36, setting out the

consideration that has been given to equalities issues which should be considered when approving the award of this contract.

68. 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 46-52 confirms the financial implications of this award.

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



22 December 2020

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
Not applicable.

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

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.

None

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

or

~~**I declare that I was informed of the conflicts of interests set out in Part B4.***~~

(* - Please delete as appropriate)

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Main Works for Flaxyard and Peckham Library Square	Regeneration capital projects	Cat Janman 02075250659

APPENDICES

No	Title
Appendix 1	Site Plan Flaxyard
Appendix 2	Site Plan Peckham Library Square

AUDIT TRAIL

Lead Officer	Bruce Glockling, Head of Regeneration - Capital Works and Development	
Report Author	Cat Janman, Project Manager (Housing regeneration)	
Version	Final	
Dated	10 December 2020	
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
Director of Exchequer (for housing contracts only)	Yes	Yes
Cabinet	n/a	n/a
Date final report sent to Constitutional Team		22 December 2020