

**Decision Maker:** **EXECUTIVE**  
For Pre-Decision Scrutiny by the Renewal, Recreation and Housing Policy Development and Scrutiny Committee on Tuesday 2<sup>nd</sup> of July 2019

**Date:** Executive – 10<sup>th</sup> July 2019

**Decision Type:** Non-Urgent Executive Key

**Title:** **AWARD OF CONTRACT FOR THE BUILD AND MANAGEMENT OF MODULAR HOMES AT THE YORK RISE SITE**

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**Chief Officer:** Director: Housing (ECHS)

**Ward:** Farnborough and Crofton

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## 1. REASON FOR REPORT

- 1.1 Members have received regular reports detailing the current pressures in relation to homelessness and nightly paid temporary accommodation. Executive on the 10<sup>th</sup> January 2018 agreed permission for a formal tender to commence to appoint a supplier of modular build accommodation at the York Rise site in Orpington.
- 1.2 This report provides details of the tenders received for the delivery and management of modular build accommodation and makes recommendations for the award of contract and supporting finance arrangements.

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## 2. RECOMMENDATIONS

- 2.1 Members of the Renewal, Recreation and Housing PDS Committee are asked to review and provide their comments on the proposal for the award for the provision of modular build accommodation at the York Rise site together with a management contract, to the Executive for consideration.
- 2.2 The Executive are asked to:
  - i) Award a contract for the the provision of modular build accommodation and management contract at the York Rise site for a contract period of 15 years, with the option to extend for a further 5 years.

- ii.) Bidders were requested to provide prices for both the leasing of the modular units to the Council and the option for the Council to purchase the modular units at the outset or during the lifetime of the contract. Members are asked to agree to the modular units being purchased on day 1 of the contract period.
- iii) Recommend that Council approves the addition of funds to the Capital Programme funded from the Housing Investment Fund and the Investment Fund for the purchase of the modular constructed units, planning, preparation and associated constructions costs.

## Impact on Vulnerable Adults and Children

1. Summary of Impact: Modular constructed units will provide suitable accommodation in borough to help meet housing needs and safeguard vulnerable adults and children.

## Corporate Policy

1. Policy Status: Existing Policy
  2. BBB Priority: Children and Young People, Supporting Independence
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## Financial

1. Cost of proposal: Included within Part 2 Report
  2. Ongoing costs: Included within Part 2 Report
  3. Budget head/performance centre: Capital Programme
  4. Total current budget for this head: N/A
  5. Source of funding: Housing Investment Fund and Investment Fund
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## Staff

1. Number of staff (current and additional): N/A
  2. If from existing staff resources, number of staff hours:
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## Legal

1. Legal Requirement: Statutory duty: The statutory rehousing duty is set out in the Housing Act 1996
  2. Call-in: Applicable Applicable
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): During the past year Bromley received approaches from around 3,000 households at risk of homelessness. There are currently approximately 1,560 households living in temporary accommodation of which around 900 are in forms of costly insecure nightly paid accommodation
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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: Ward Councillors were asked to comment on the initial proposal for use of York Rise for modular constructed affordable units and attended a site visit. Full consultation will be undertaken with ward Councillors in developing the final designs for the scheme both prior to and during the planning application process.

## **3. COMMENTARY**

- 3.1 As previously reported, the Council has received a sharp increase in the number of households approaching for assistance and accommodation leading to a significant increase in the number of households having to be accommodated in temporary accommodation. The Council needs to secure a much higher percentage of accommodation through a wider range of schemes to reduce the current reliance on high costs nightly paid units and associated cost pressures.
- 3.2 On the 24<sup>th</sup> May 2017 Executive were informed on the potential of the Council owned piece of land at York Rise for the provision of modular constructed homes. Executive agreed that officers should proceed with a further analysis to assess the suitability of the site and to engage the market to obtain a good understanding of market solutions as this is the first modular build project the Council has worked on.
- 3.3 Executive were informed of the findings of the market engagement on the 10<sup>th</sup> of January 2018 and agreement was made for the formal tender process to begin to appoint a supplier to provide the construction of the modular units including the management of the units.

#### **4. DESCRIPTION OF SERVICE AND SUMMARY OF THE BUSINESS CASE**

- 4.1 Like most London boroughs one of the most significant long term cost pressures is the increase in temporary accommodation to meet statutory rehousing duties and the shift in the market to nightly rate accommodation. Due to the ever growing demands of temporary accommodation, it is accepted that the Council will need to make some placements in other local authority areas, however there are risks attached to doing this in volume and recently other London Boroughs have faced significant six figure sum fines for placing out of borough or in shared accommodation. As such, the York Rise site being within the Bromley Borough brings easy transport links, local support networks, and access to employment and so forth thus continuing to ensure that the Council meets its statutory obligations in relation to the suitability criteria for temporary accommodation.
- 4.2 The proposal offered by the recommended solution operates as a full “turn-key solution” for the delivery and management of a scheme which includes the following range of services:
  - Detailed analysis of the land capacity to support accommodation in order to make best use of the land
  - Design of the units and site layout, recognising the need for an appropriately designed accommodation to suit the surrounding area
  - Formal planning application on the Council’s behalf, including the carrying out a public consultation to inform local residents of the new scheme and guide any local concerns
  - Ground analysis of the site, carrying out surveys and investigatory works before beginning any groundworks
  - Acquisition and installation of the units including ensuring all utility works are carried out and completed and up to the necessary standards to let including preparation of the site and landscaping
  - Disassembly and disposal of the units at the end of the term (if this option is exercised)
  - Management of the units and the site as detailed in section 4.3
- 4.3 As this contract is considered to be a turn-key solution, the provider will also undertake all housing and tenancy management duties on the Council’s behalf. The

Council will retain 100% nomination rights to have direct control over letting of the units.

- 4.4 The units are built off site and can be installed in a relatively short time period subject to planning permission has been granted. They can also be dismantled and moved to a different location if this option was ever required. The proposed unit mix is set out within the Part 2 Report.
- 4.5 This Contract is awarded on the basis of the initial outline design and estimated costs which is subject to final consultation and sign off by the Council prior to the Planning Process.

### **Capital Funding**

- 4.6 The providers were asked to submit two costs within their proposals; the cost for the Council to lease the units on an annual basis (with the option to purchase at any point during the lifetime of the contract) and a cost for the Council to purchase the units at the start of the contract. Both prices were requested to determine which option proposed best value for money. The recommended proposal is for the Council to purchase the units upfront as a one-off cost because it represents significantly better value for money to the Council, as detailed in section 12 of the Part 2 Report.
- 4.7 Capital funding is also required to underwrite the planning process and for the site preparation and construction works including all groundworks as set out in section 12 of the Part 2 Report.

### **Revenue**

- 4.7 The Council has full nomination rights and flexibility of use for temporary and settled housing solutions to best meet demand and statutory rehousing requirements in the most effective way.
- 4.8 The ongoing management and maintenance costs would be financed through the rental stream, with the surplus returned to the Council.

## **5 CONTRACT AWARD RECOMMENDATION**

- 5.1 **Recommended Provider** – Included within the Part 2 Report
- 5.2 **Estimated Contract Value (annual and whole life)** – Included within the Part 2 Report
- 5.2 **Other Associated Costs** – Included within the Part 2 Report
- 5.3 **Proposed Contract Period** – 15 years + 5 years
- 5.4 A competitive procedure with negotiation was undertaken with an evaluation criteria based on 60% price and 40% quality, with a minimum quality qualifying score criteria.
- 5.5 The tender documents were published on the 23<sup>rd</sup> of March 2018 with the supplier shortlisting's (SQ) to be returned by the 1<sup>st</sup> of May 2018. Initially there were 44 expressions of interest and only 6 providers submitted the Selection Questionnaire for the first round. Of this 6, only 3 providers were taken through to the next stage and invited to submit their initial proposal.

- 5.6 The providers were asked to submit a bid based on the current service specification and the Councils published contract documents which provided for the Council's minimum requirements under the negotiated process. On the 25<sup>th</sup> of June 2018, 3 providers were asked to submit their initial tender bids.
- 5.7 The providers submissions were scored on the 60% Price, 40% Quality criterion. The following breakdown shows the quality criterion as evaluated on:

	<b>Criteria</b>	<b>Weighting</b>
<b>Criterion 1</b>	Financial Resources and Contract Affordability	10%
<b>Criterion 2</b>	Design and Planning	15%
<b>Criterion 3</b>	Consultation	15%
<b>Criterion 4</b>	Implementation	20%
<b>Criterion 5</b>	Housing Management – Buildings	20%
<b>Criterion 6</b>	Housing Management – Tenants	20%

- 5.8 Under the competitive procedure with negotiation, the Council can repeat the initial tender, feedback and negotiation stages as a re-iterative process until the Council arrives at a point where they wish to seek final tender bids from the remaining candidates.
- 5.9 After the first submission, one provider did not score above the criteria threshold and was therefore removed from the process. The remaining providers were asked to submit two further outline proposals with clarification and negotiation meetings. Final tender submission was requested on the 14<sup>th</sup> of June 2019.
- 5.10 The tender process, including the evaluation arrangements were overviewed by a project team and a wider Management Board which included lead officers from Procurement, Legal, Finance, Renewal & Recreation and the service area.
- 5.11 The outcome of the evaluation of the final tender submission is included within the Part 2 Report.

## **6 MARKET CONSIDERATIONS**

- 6.1 With all London borough facing increased pressure to meet statutory rehousing responsibilities, competition to secure available temporary accommodation is fierce. Housing Benefit freezes have meant that this market has become less attractive to providers and there has been a significant market shift to costly nightly rate accommodation. Use of Council owned sites for the development of affordable and temporary accommodation offers a cost effective solution to reduce the reliance on the nightly rate market.
- 6.2 Soft market testing was undertaken to inform the tender process and engage with the market.
- 6.2 The tender allowed for comparison of both leasing and outright purchase options to ensure best value for money.
- 6.3 Whilst off-site construction is still a relatively new delivery model, there are an increasing number of providers entering the market for both short and long term

housing solutions. Particular attention was given within the specification to ensure the quality and life span of the units will be fit for purpose.

## **7. STAKEHOLDER ENGAGEMENT**

- 7.1 The Council has a published temporary accommodation procurement and placement policy and homelessness strategy, both of which have been developed in consultation with key partners and service users.
- 7.2 The Council has consulted widely with other housing authorities in London and the South East who have developed similar modular schemes. London Councils Housing Directors group has undertaken extensive data sharing in relationship to the Temporary Accommodation market (providers, prices, availability) and homeless demand. The Council continues to liaise frequently with housing providers to gain insight into the market.
- 7.3 Before going out to tender, the Project Team undertook a “Suppliers Day” which informed the decision on which tendering procedure to use and the suitability around the length of contract. The Suppliers Day also helped to inform the specification and requirements.

## **8. SUSTAINABILITY AND IMPACT ASSESSMENTS**

- 8.1 Improving the supply of good quality accommodation will have a positive impact on homeless people placed by the Council. The scheme will bring more access for temporary accommodation within Bromley or retaining temporary accommodation for existing Bromley residents; this will enable them and their families to retain contact with their own community, health resources, schools etc. This will have a positive impact on the well-being of Bromley residents and the life chances of children.
- 8.2 Full consideration will be given to the design in order to minimise the impact on those homes overlooking the site. Residents and Ward Members will be consulted as part of the formal process in order to ensure that the scheme compliments the local street scene.
- 8.3 Due to the nature of the location of the site, there may be minor disruption to the local people living in Crofton. However, the modular units are manufactured offsite and are craned in over a short period of time thus causing minimal disruption when compared to traditional build methods.
- 8.4 It has been noted that the empty site has attracted loitering and anti-social behaviour which has caused disruption to local residents. The development of the site will eliminate this and improve the environment for local residents.

## **9. POLICY CONSIDERATIONS**

- 9.1 The housing objectives are set out in the relevant business plans. These objectives are compliant with the statutory framework within which the Council’s housing function must operate and incorporate both national targets and local priorities identified from findings of the review, audits and stakeholder consultation.
- 11.2 The Council has a TA procurement and placement policy which seeks to ensure compliance with the statutory framework for the provision of temporary accommodation meeting the requirements for suitability whilst seeking value for money in all placements. The homelessness strategy and forthcoming housing

strategy also set out the range of initiatives required to prevent homelessness and secure a sufficient supply of accommodation to meet statutory housing needs.

- 11.3 The provision of additional accommodation through modular construction methods would provide warm, safe and fully equipped homes to meet housing need and reduce the number of families placed into insecure and costly forms of nightly paid provision. Such accommodation can be used flexibly as the Council would maintain full control over nominations to enable use on a best term basis for temporary or settled housing solutions to meet statutory housing need.

## **10. IT AND GDPR CONSIDERATIONS**

- 10.1 There is a third party Statement from the recommended provider detailing compliances with GDPR.

## **11. PROCUREMENT RULES**

- 11.1 This report seeks to award the contract for the build and management of modular homes at York Rise, Orpington.
- 11.2 The Tender was advertised as a Competitive Procedure with Negotiation and the process has been carried out.
- 11.3 In Compliance with the Council's Contract Procedure Rules 8.2.1 the Council made use of a Public Advertisement for the Invitation to Tender. The opportunity was also included on 'Contract Finder' and the Official Journal of the European Union (OJEU), with all Suitable Candidates responding, being considered.
- 11.4 A sufficient number of candidates responded to the Stage One 'Selection Questionnaire', with 3 candidates going on to Stage 2 tender submissions. Of these one candidate did not meet the minimum score at the initial submission, and was ruled out of the process. Further rounds of clarification, negotiation and discussion were undertaken, resulting in 3 further submissions from the 2 remaining bidders.
- 11.5 Following the decision of this report, an OJEU Award Notice will be issued and, as the contract value is over £25,000, which will be published on Contracts Finder. A mandatory standstill period of 10 days, known as the Alcatel Mandatory Standstill Period, will need to be observed.
- 11.6 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

## **12. FINANCIAL CONSIDERATIONS**

- 12.1 It is proposed that the Council award the contract under the up-front purchase option. Details regarding the financial considerations of the tenders and the total capital costs are included within the Part 2 Report.
- 12.2 The 'Draft 2019/20 Budget and Updated on Council's Financial Strategy 2020/21 to 2022/23' reported to Executive on 16<sup>th</sup> January 2019 referred to the Growth and Investment Funds retained by the Council and that the monies remaining would be prioritised for housing investment at this stage. It is proposed that the scheme is funded from the Housing Investment Fund and the Investment Fund.

- 12.3 There may be the opportunity to secure grant funding from the GLA towards this scheme, which will reduce the need for Council capital funding.
- 12.4 By utilising this site for housing, the Council is foregoing a capital receipt estimated at £2.5m if the site were to be disposed of on the open market.
- 12.5 If planning permission is not obtained for the scheme then the Council will be liable for some of the costs incurred by the provider. These are specified in the Part 2 Report.

### **13. PERSONNEL CONSIDERATIONS**

- 13.1 See paragraph 14.9.

### **14. LEGAL CONSIDERATIONS**

- 14.1 The Housing Act 1996 sets out the Council's statutory Housing duties.
- 14.2 The Council can rely on Part 7 of the Housing Act 1996 to provide temporary accommodation together with the general power of competence in section 1 Localism Act 2011. Accommodation made available under Part 7 of the Housing Act 1996 strictly as provided by Schedule 1 of the Housing Act 1985, will not be a secure tenancy or license.
- 14.3 The demand for homeless accommodation has continued to increase following the implementation of the Homeless Reduction Act 2018, as the duties towards homeless households are expanded. The Council must make decisions in accordance with the law and also in accordance with its fiduciary duty to its tax payers in using Council resources. The report explains the benefits including the financial benefits that must be properly weighed up and considered before taking the decisions set out in the recommendations.
- 14.4 A contract for the procurement of modular buildings and management of the units and tenants is a mixed public contract within the meaning of the Public Contracts Regulations 2015 (Regulations) for supplies works and services. Due to the value the Council was therefore required to follow a fully compliant EU tender exercise starting with publishing a Notice in OJEU.
- 14.5 The Executive is being asked to consider the outcome of the procurement exercise which has sought competitive tenders to provide a 'turn-key' solution namely the build, supply, installation and management of the modular homes at York Rise. The report recommends that the Executive approves the outright purchase option from the bidder that provided the most economically advantageous tender having applied the contract award procedure as more fully explained in The Contract Award Recommendation section 5 of this report.
- 14.6 In accordance with the Council's Constitution in setting the Budget as identified within the recommendations the Executive is being asked to agree the funding through the allocation of Capital expenditure and seek the approval of Full Council.
- 14.7 Under the Councils Contract Procurement Rules (CPR 16.7) the award of contracts which exceed in total £1M must be agreed by the Chief Officer, the Director of Corporate Commissioning, and the Portfolio Holder and approved by the Executive through the use of this report.

- 14.8 It would appear from the contents of the report which sets out the evaluation and award details that the Council have carried out a fully compliant EU procurement exercise and have complied with its CPR's. A standstill period following awards will need to be carried out under the Regulations.
- 14.9 Legal have provided input in relation to the finalisation of the Contract Documentation. As mentioned elsewhere in this report as part of the Management Agreement there is a nominations agreement where the council has 100% nomination rights. The Management Agreement also makes provision for TUPE rights arising in circumstances where in the future there is any service provision change under the Management Agreement. The Contract Documents will be contingent on obtaining planning permission and also makes provision to provide the provider with the initial funding for design and planning costs identified in their tender and makes provision for termination in the event that the council cannot agree on the design or planning is refused.
- 14.10 As part of the legal arrangements the Provider will be the landlord and grant non-secure tenancies to persons nominated by the Council and the provider will be granted a lease of 20 years with a 5 year break clause from the Council.
- 14.11 Under Section 123 of the Local Government Act 1972 the Council has a legal obligation to dispose of land at the best consideration reasonably obtainable. Disposal includes the grant of a lease. Where the term of a lease exceeds seven years the Council has to let at the best rent reasonably obtainable. In this transaction the rent is a peppercorn however this is related to the value of the development and the associated arrangements surrounding management and maintenance of the modular homes and tenants. Officers have advised that given the commercial arrangements which have been the subject of a tender process, the lease when looked at as part of a commercial arrangement overall as set out in the Contract Documents, shows the letting is the best rent reasonably obtainable

<b>Non-Applicable Sections:</b>	
Background Documents: (Access via Contact Officer)	[Title of document and date]  (Appendices to be Included)

**OFFICER SIGN OFF SHEET (NOT TO BE INCLUDED WITH PUBLISHED MEMBERS REPORT)**

**Title:**

**Decision:** Contract Award Over £500k

**Contact Officer:**

Name

Title

Department

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**AUTHORISATION**

**Agreed by (signature and date):**

\_\_\_\_\_ Date: \_\_\_\_\_

Name

Budget Holder / Contract Owner

Title

Department

\_\_\_\_\_ Date: \_\_\_\_\_

Name

Lead Commissioner

Department

\_\_\_\_\_ Date: \_\_\_\_\_

Director of Commissioning

*Required for all Contract Award £100k+*

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**Approved by (signature and date):**

\_\_\_\_\_ Date: \_\_\_\_\_

Chief Officer

Name

Title

Department

*Required for all contract award £200k+*