

Report of: City Development

Report to: Director of Environment & Housing

Date: 12 November 2015

Subject: Council Housing Growth Programme: Appointment of a contractor as the Stage 1 Appointee as part of a two stage bundled procurement to deliver new council homes on The Garnets, Broadlea Street and Whinmoor Public House sites.

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): City and Hunslet, Bramley and Stanningley, Cross Gates and Whinmoor,		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number: A – Confidential Tender Report: Priced tender submissions and evaluation scores.		

Summary of main issues

1. The Garnets, Broadlea Street and The Whinmoor Public House sites form part of a number of sites being developed under the Council Housing Growth Programme. These three schemes have been bundled to be delivered through one procurement exercise.
2. The schemes are being procured using a two stage competitive process via the YORbuild framework. The first stage of the process has been undertaken by the Housing Growth Team, in conjunction with Project, Programmes and Procurement Unit (PPPU) on behalf of Environment and Housing. This has resulted in selection of Kier Regional Ltd t/a Kier Northern as the proposed Stage 1 Appointee. The Stage 1 Appointee will work with the Housing Growth Team, during the Stage 2 of the tender process to develop an agreed price and design for each of the three schemes.
3. On 25th August 2015, tender documentation was issued to contractors from the West Lot of the YORbuild Framework. Four tender submissions were received.

Recommendations

It is recommended that the Director of Environment and Housing approves:

The decision to enter into the written Stage 1 Appointment agreement with Kier Regional Ltd t/a Kier Northern and the continuation of the two stage process to further develop the schemes.

1.0 Purpose of this report

1.1 The purpose of this report is to seek approval to appoint a Stage 1 Appointee and for them to proceed to Stage 2 of the procurement process to work with the Council to develop an agreed design and price for each of the three schemes. A separate contract will be awarded for each scheme subject to approval via further DDNs.

2.0 Background information

2.1 The Garnets, Broadlea Street and the Whinmoor Public House sites form part of a number of sites being developed under the Council Housing Growth Programme (CHGP) which was approved at Executive Board on 9th January and 17th July 2013. Broadlea Street will deliver 24 family houses, The Garnets will deliver 25 family houses and the Whinmoor Pub site will deliver approximately 22 family houses.

2.2 To date, contracts have been awarded on three sites within the CHGP; East Park Road, the site of the former Haworth Court facility and the site of the former Squinting Cat Public House.

2.3 The Stage 1 Appointee will deliver the three sites, subject to successful completion of the Stage 2 procurement exercise. A separate contract will be awarded for each scheme subject to approval via DDN.

2.4 NPS Leeds were commissioned to undertake design works up to RIBA Stage 3 for The Garnets and Broadlea Street sites, up to feasibility stage for the Whinmoor Public House site and to develop specifications and tender documentation to facilitate the two stage procurement exercise.

2.5 Approval under CPR 3.1.8 to procure a framework contractor using a two stage competitive process via the YORbuild framework for the three sites was given by the Director of Environment and Housing via DDN on 17 December 2014.

2.6 As outlined in the report to the Director of Environment and Housing in December 2014, there are a number of expected benefits of procuring one contractor to deliver all three sites via one procurement exercise. Some of the benefits will include; benefits of economies of scale in contractor and supply chain engagement, improved risk management, transferable lessons learned and improved outcomes in terms of meeting the requirements/objectives of the Leeds Standard, improving build quality, increasing value for money and providing the opportunity to maximise the training and employment opportunities across the programme.

- 2.7 An initial 'soft market testing' exercise was undertaken via an Expression of Interest (EOI) to establish initial interest in tendering for the scheme under a two stage procurement exercise. This was sent to those contractors on the West YORbuild Framework with the financial capacity to deliver all three sites. Contractors were asked to demonstrate their technical capability and capacity to deliver this bundle of schemes by setting out their experience of delivering new build social housing for a registered social landlord or a local authority in the EU.
- 2.8 Following the EOI exercise, seven contractors confirmed their interest in the scheme and the Invitation to Tender for the Stage 1 procurement was issued to those seven bidders on 25th August 2015. Out of the seven contractors who were issued tender documents, four tender submissions were received.
- 2.9 Following the issue of the tender documents, a Bidders' Day was held. This provided bidders with background information on CHGP, overview of the information provided in the tender, including key aspects of the output specification and an overview of the procurement process. The bidders' day also provided bidders with the opportunity to ask any questions they had on the tender / our requirements.
- 2.10 Bidders were also invited to attend a Mid-Tender Clarification session held by NPS, PPPU and the Housing Growth Team on the 10th September 2015. This provided an opportunity for bidders to further clarify any areas of the tender documentation to assist them in effectively pricing the tender. All clarifications raised during the tender period were recorded on a clarification log and were published on the Yortender procurement portal.

3.0 Main issues

Stage 1 Procurement Process

- 3.1 During stage 1, bidders were asked to submit a tender containing a price and quality submission. The price submissions were required to include the total fees, preliminary costs and design costs for all three schemes and the works costs for The Garnets scheme. The quality submissions were required to include responses to the questions set out in the Instructions for Tendering.
- 3.2 An output specification was developed by the project team and provided as part of the tender documents. This sets out the quality requirements to be met by the Stage 1 Appointee reflecting the established Leeds Standard to which all new council housing will be built.
- 3.3 The evaluation criteria was published within the Instructions for Tendering. This contained a price/quality split of 40/60. On previous schemes in the CHPG, the price element has had a higher emphasis in the scoring, but in this instance, the project team felt that the quality element should have a higher proportion to ensure that the Stage 1 Appointee met the quality requirements for the programme and demonstrated that they had the ability to work with the Housing Growth Team to develop the scheme in Stage 2. This price/quality split and the evaluation criteria were developed in conjunction with PPPU and were signed off by the Director of Environment and Housing prior to the tender documents being

issued. Specific Employment and Skills targets were produced for this bundle of schemes by the YORbuild Employment and Skills Manager. The advantage of bundling the three schemes together and the longer duration of the arrangement meant that a requirement to engage three apprentices could be included as part of the Employment and Skills targets.

- 3.4 Four tender submissions were received on the 7th October 2015. Three contractors opted out of the tender process due to: a lack of resources to bid for the scheme along with other tender opportunities; being unable to provide a competitive bid that delivered the requirements of the specification and due to programme issues.
- 3.5 The tenders have been assessed in line with the evaluation methodology published in the Instructions to Tender. The quality submission was scored by a panel comprising of officers from the Housing Growth Team, Housing Leeds, PPPU (Technical Manager) and NPS (Senior Architect), and was overseen by PPPU. An Officer from Employment and Skills scored the bidders' Employment and Skills Plan and Method Statement.
- 3.6 The price element of the tender was evaluated and checked by the Quantity Surveyor (QS) Team from NPS Barnsley Ltd. Where arithmetical errors were identified by the QS these have been checked by the bidder, with the tender price adjusted with each bidder who confirmed that they accepted the corrected figure and stand by their tender price.
- 3.7 As part of the tender price, bidders were required to submit a works cost for The Garnets. All bids received were under the pre tender estimate for The Garnets as provided by NPS prior to tender (£4,083,000.00) Kier's works cost for The Garnets was 9% below the pre-tender estimate. All prices are subject to review and agreement in line with the rules set out for the Stage 2 process. Further details on pricing are set out in the tender report which accompanies this report as a confidential appendix.
- 3.8 The total tender figure submitted by the proposed successful tenderer Kier is £4,683,987.76 this is made up of the following costs:
- Fees for each scheme
 - Preliminary costs for each scheme
 - Design costs for each scheme
 - Works cost for The Garnets

There was a range of 11.8% between the lowest and highest priced bids received.

- 3.9 NPS have confirmed that the tender price submitted by Kier is arithmetically correct and having undertaken the necessary checks are satisfied that the costs reflect the specification.
- 3.10 Following the evaluation of the tender submission, Kier received the highest combined price/quality score. Further details on the overall scores received for

each tender is set out in the tender report which accompanies this report as a confidential appendix.

- 3.11 The unsuccessful bidders will be informed of the outcome, subject to approval of the recommendation in this report. Bidders will be notified in accordance with the Alcatel standstill procedures.

Stage 2 Procurement Process

- 3.12 Subject to the approval to appoint Kier as the Council's Stage 1 Appointee, the second stage of the procurement process will involve working in partnership with Kier to finalise the designs and an agreed contract price for the first two schemes (The Garnets and The Broadlea Street) and to develop proposals and agree the contract price for the Whinmoor Public House site. The contract prices will be developed using the prices submitted in competition as part of Kier's Stage 1 tender and will be assessed and controlled during the Stage 2 tender process by the NPS Quantity Surveyor.
- 3.13 In the event that agreement cannot be reached with Kier on the design or contract price for one of the schemes, the Council has the option of terminating the agreement in relation to one or more schemes and approaching the wider market. This could include approaching the bidder who came second in the procurement process or going back out to the market depending on circumstances. There was only a 7.4% difference in scores between Kier's bid and the second placed bidder. The risk of not being able to reach agreement on design is very low for The Garnets and Broadlea Street because the designs are already well developed. The risk of not being able to reach agreement the price for any of the schemes is low because Kier are required to use their prices submitted in Stage 1 to develop their Stage 2 prices.
- 3.14 Works contracts (NEC Option A) for each scheme will be entered into with Kier at the end of the Stage 2 process (subject to approval via a further DDN at award of contract). The works contracts will be based on the price and design submitted by the Stage 1 Appointee during Stage 2.
- 3.15 During Stage 2, Kier will be responsible for:
- Reviewing and developing the Broadlea Street and The Garnets projects from developed design (RIBA Stage 3) to completion of technical design (RIBA Stage 4).
 - Developing the Whinmoor Public House project from feasibility to completion of the technical design (RIBA Stage 4).
 - Submission and approval of the Planning Application for the Whinmoor Public House scheme. Kier are responsible for controlling the costs and the planning timescales in line with their bid.
 - Meeting the requirements of the Council's specification
 - Submitting a formal Stage 2 tender for each project (including design, price and programme).
 - The engagement of ward members in the design development process for the Whinmoor Pub site lead by the Housing Growth Team.

- 3.16 Within the Stage 1 tender submissions, tenderers were required to confirm that they could reach contract award for Broadlea Street by 31st March 2016 and complete all three schemes by 31st October 2017. During Stage 2, a detailed construction programme will be agreed between Kier and the Council for each scheme. The Stage 2 period will last 4 months for The Garnets, 5 months for Broadlea Street and 7 months for Whinmoor Pub scheme. All the schemes are due to be completed and handed over by the Council's deadline of 31 October 2017 which is within the HCA funding deadline.
- 3.17 As with previous schemes within the CHGP, NPS will be providing post contract services which include cost control and contract management for these schemes, NPS will also provide a Technical Advisor role during the Stage 2 procurement process.
- 3.18 A Contract Management Plan will be produced by the Housing Growth Team in liaison with PPPU to manage the delivery of each of the three schemes; these will be submitted along with the DDN at the point of contract award for each of the schemes

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Regular updates on progress across the whole programme are presented at Council Housing Growth Programme Board, Housing Growth Board and the Elected Members Steering Group.
- 4.1.2 Local Ward Members have been regularly briefed on scheme proposals, for which planning permission has been granted for Broadlea Street and The Garnets. The Housing Growth Team and Kier will continue to engage with members in the development of proposals for the Whinmoor Public House Site. Local Ward Members have also been advised of the decision to procure these three sites in the CHGP via a two stage procurement approach.
- 4.1.3 A communication strategy for the Council Housing Growth Programme has been developed which outlines the process for consulting and engaging with key stakeholders in relation to individual schemes and which will be applied to all the new build schemes delivered under the programme.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An equality screening has been undertaken and the main outcomes of the screening were that the delivery of affordable housing through this programme will have positive implications for equality groups in particular older people and will promote wellbeing and inclusion. The screening form is attached at Appendix B to this report.

4.3 Council policies and City Priorities

- 4.3.1 The development of new council housing will address priorities within the City Priority Plan to provide additional affordable housing, and in contributing to the

delivery of one of the Council's Breakthrough Projects, 'Housing Growth and Jobs'.

- 4.3.2 The construction of new homes will help to create training and employment opportunities (within the local community with a requirement of the YORbuild Framework to deliver outcomes relating to employment and training opportunities. This procurement approach enables employment and training opportunities to be maximised across the three sites. Kier are required to deliver three apprenticeships for this bundle of schemes and stated in their bid that they are working to a target of delivering four apprenticeships.

4.4 Resources and value for money

- 4.4.1 The programme and budget is managed through the Housing Growth Team in conjunction with Corporate Resources and Environment and Housing Teams.
- 4.4.2 NPS on behalf of the Council will review the appointed contractor's design and cost proposals as they develop. Pricing will be conducted on an open book basis and will be overseen by the NPS Quantity Surveyor. An NEC Engineering and Construction Contract Option A contract for each individual scheme will only be entered into once a design and price has been agreed with the Council.
- 4.4.3 NPS will be commissioned to provide post contract services for each of the individual schemes once in contract which will include cost control and contract management during the build programme.

4.5 Revenue Effects

There are no revenue implications associated with this report.

4.6 Legal Implications, Access to Information and Call In

- 4.6.1 PPPU colleagues have confirmed that they are satisfied that the procurement process has been conducted in line with the Council's CPRs.
- 4.6.2 The decision on the appointment of a Stage 1 Appointee, as part of a two stage procurement process to deliver new council homes on The Garnets, Broadlea Street and Whinmoor Public House is considered a Significant Operational Decision to be made the Director of Environment and Housing.

4.7 Risk Management

- 4.7.1 In February 2015, a joint workshop with PPPU was facilitated to identify any risks specifically related to this procurement strategy which were added to the programme risk log. This is reviewed on a monthly basis, and any high or very high risks are reported to the Programme Board so that the mitigating action can be reviewed.
- 4.7.2 A key risk of procuring via a two stage procurement exercise is that the full price and design is worked up after the competition has concluded. This risk has been managed by the project team via: ensuring a substantial amount of pricing information was made available at stage one (bidders asked to fully price The

Garnets) and which will be used as a benchmark when comparing prices proposed at stage two; the use of an experienced QS' (NPS) to manage the pricing process on behalf of LCC; and ultimately, if the appointed contractor doesn't submit an acceptable price and design the Council will not enter into a contract for a scheme at stage two, and have the options set out in section 3.13 above.

5.0 Conclusions

- 5.1 A procurement exercise has been conducted by the Housing Growth Team, NPS and PPPU using the YORbuild framework.
- 5.2 A price/quality evaluation of the tender submissions using the published evaluation criteria has resulted in Kier achieving the highest overall score.
- 5.3 NPS have confirmed that the tender price in the sum of £4,683,987.76 submitted by Kier at stage one is arithmetically correct and having undertaken the necessary checks and are satisfied that the costs reflect the specification.
- 5.4 Works contracts (NEC ECC Option A) for each scheme will be entered into with Kier at the end of the Stage 2 process (subject to approval via a further DDN at award of contract). The works contracts will be based on the price and design submitted by the Kier during Stage 2.

6.0 Recommendations

It is recommended that the Director of Environment and Housing approves:

The decision to enter into the written Stage 1 Appointment agreement with Kier Regional Ltd t/a Kier Northern and the continuation of the two stage process to further develop the schemes.

7.0 Background documents¹

Confidential Appendix A –Confidential Tender Report Final, summary of all tender submissions.

Appendix B – Equality, Diversity, Cohesion and Integration Screening.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.