

Report of Chief Officer of Property and Contracts

Report to *Director of Resources and Housing*

Date: April 2019

Subject: Request to waive contract procedure rules in respect of delivery arrangements for a pilot scheme to replace two bin chutes at Poplar Court Block 2 (flats 48 – 93).

Are specific electoral wards affected? If relevant, name(s) of ward(s): Bramley & Stanningley	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The bin chutes at Poplar Court are constructed of clayware material with an internal diameter of 375mm. This internal diameter was designed to suit the size and type of waste generated some 30 - 40 years ago. It has been suspected that the type of waste produced today, such as plastics, cardboard and other general waste is causing repeated blockages.
2. Upon inspection the inner sections of both bin chutes have been found to be chipped and cracked; this is as a result of both large heavy items being discharged into the bin chutes, and the impact over time of the wet waste absorbing into the clayware thus damaging/softening the clayware material.
3. Hardall International Limited provided a quote for the replacement of the bin chutes at these locations as a sub-contractor to Mears as part of their Repairs Contract. The replacement of chutes of this nature is specialist work and a market sounding exercise, undertaken in January 2019, generated limited interest from contractors of this nature. Hardall International Limited has prior experience of this type of work, as they have replaced damaged bin chutes for a number of other Local Authorities and Social Housing providers.
4. In order to undertake these works including preliminaries scaffolding etc the contractor has quoted £191,920. There is a desire to replace these chutes as a priority and as part of a pilot scheme. In order to proceed on this course of action a waiver of Council Contracts

procedure rules no 9.1 and 9.2 – high value procurements would be required to engage Hardall International Ltd to replace two bin chutes to Poplar Court (Block 2).

It is expected that replacing the two chutes at Poplar Court (Block 2) will reduce the number of call outs to unblock the chutes which will in turn reduce the fire safety risk linked to blocked chutes. These blocks are among the most regularly visited by the Council cleaning services each month.

Recommendation

5. The Chief Officer Property & Contracts is recommended to approve the waiver of contract procedure rules 9.1 and 9.2 – high value procurements - in order to award a contract to Hardall International Limited, to carry out works at a cost of £191,920 to Poplar Court (Block 2) as part of a pilot bin chutes replacements scheme that is expected to commence in September 2019 and complete in late January 2020.

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1 Purpose of this report

- 1.1 The purpose of this report is to seek approval to a waiver of Council Contracts procedure rules no 9.1 and 9.2 – high value procurements in order to appoint Hardall International Ltd to carry out as a pilot scheme the replacement of the two bin chutes to Poplar Court (Block 2).

2 Background information

- 2.1 The bin chutes at Poplar Court are constructed of clay ware material with an internal diameter of 375mm. This internal diameter was designed to suit the size and type of waste generated some 30 - 40 years ago. It has been suspected that the type of waste produced today such as plastics, cardboard and waste in general is causing repeated blockages.
- 2.2 The proposed pilot to replace two bin chutes at Poplar Court Block 2 will allow Leeds City Council to assess whether further works of this type should take place to other sites within other parts of the City. The pilot will allow for the bin chutes (2 no) to be replaced with a wider (450mm) stainless steel bin chutes.
- 2.3 The benefits of carrying out this works include:
- Larger diameter chutes – reduced blockage.
 - Independently fire certified hopper doors at all levels.
 - Independently smoke certified hopper doors at all levels.
 - Independently fire certified doors at discharge section
- 2.4 The proposed long term strategy for this type of work is contained in the Leeds High Rise Strategy.
- 2.5 A market sounding was undertaken in January 2019, and an overview of all replies was forwarded to the service lead. Replies were received from 4 companies who all indicated they were happy to work with LCC. The suggested solutions were as follows:
1. replacement of bin chutes with a new chute with a larger diameter;
 2. replacement of bin chutes like for like or with a larger diameter;
 3. the replacement of the internal bin chutes with an external bin chute;
 4. full lining of the current bin chutes with a hardwearing resin.
- All these solutions will be brought forward to be considered when the long term strategy for the replacement of bin chutes is determined.
- 2.7 It is appreciated that this was a market sounding only, and that other companies might have responded had this been a full tendering opportunity. However, as this is a pilot scheme only, which after review will most likely lead to a full project around bin chutes which would be subject to tender, it was decided to submit the waiver in order to allow Hardall to carry out the work.

3 Main issues

Reason for contracts procedure rules waiver

- 3.1 The request for the waiver is being made so that a pilot can take place, in order for the Council to evaluate and compare this method to other methods of dealing with waste from high rise blocks. There was a pilot scheme a number of years ago which saw the bin chutes at Grayson Crest decommissioned and external bin stores installed. There may also be other methods of dealing with waste such as external bin chutes to the building, however without these being piloted it will be difficult for Housing Leeds to make an informed decision as to what works best or which method may suit different building types.
- 3.2 This is specialist works and Leeds Building Services the Council's building ISP have been approached but are not able to carry out this work.
- 3.3 The Poplar blocks have a high incidence of blocked chutes. Rubbish has been left in communal areas, partially due to existing bin chutes having become blocked. There have been incidents where the rubbish was deliberately being set on fire causing damage to communal areas and the lift to one block. Therefore when the chutes become blocked there is an increased risk to fire safety in each block. Cleaning Teams attend the Poplar blocks most weeks in response to tenant calls regarding stray refuse.
- 3.4 It is suggested that the two pilots (Poplar Court and an earlier pilot undertaken at a different location) are reviewed after the work on Poplar Court has been completed to inform a strategy for the replacement of bin chutes throughout Leeds. This will be supported by an analysis of feedback from a recent market sounding exercise.

Consequences if the proposed action is not approved

- 3.5 These works at Poplar Court are now urgent as the chutes are becoming ineffective so there needs to be a proactive solution to address this through the waiver process to engage a specialist contractor, if this is not implemented then there is a risk to the viability of the waste system in the Poplars.
- 3.5 At the same time proactive works are taking place such as the initial market sounding exercise, comparison of pilots etc. that will drive into the development of a long term strategy that will seek to carry out a competition exercise.

Advertising

- 3.5 As a Market Sounding exercise has been undertaken via Yortender, this opportunity was not advertised further. The outcomes of the market sounding are further detailed in 2.5.

4 Corporate considerations

4.1 Consultation and engagement

- 4.1.1 No separate consultation took place on this undertaking. The Leeds High Rise Strategy is underpinned by various elements, including a city wide High Rise Tenant Group, and meetings are held regularly where these types of issues are discussed. The decision to

undertake a pilot project on the Poplar Court Tower was confirmed in the High Rise Strategy implementation update document dated 6 November 2017, item 4.16.

4.2 Equality and diversity/cohesion and integration

- 4.2.1 There's no impact on equality and diversity/cohesion and integration, and therefore this has not been taken into consideration.

4.3 Council policies and best council plan

- 4.3.1 The work to be done contributes toward the 'Housing' priority of the Best Council Plan 2018/19 - 2019/20

- 4.3.2 It will also contribute towards the Leeds High Rise Strategy.

4.4 Resources and value for money

- 4.4.1 Hardall International Ltd was requested to provide a quote for this work in September 2017 as there wasn't the expertise to deliver the work in-house. They have experience in this particular field and have worked with other local councils in the past. They have recently reiterated they will stand by this price. Other similar projects carried out by Hardall have been visited in the past and deemed satisfactory.

- 4.4.2 The work has been budgeted for.

4.5 Legal implications, access to information and call-in

- 4.5.1 The spend on this work is below £250,000, only impacts a limited number of people, and is therefore a Significant Operational Decision and not subject to call-in. There are no grounds for keeping the contents of this report confidential under the access to information rules.

- 4.5.2 Awarding this contract directly to Hardall in this way, could leave the Council open to a potential claim from other providers, to whom this contract could be of interest, stating that it has not been wholly transparent as at least three written tenders have not been invited. In terms of transparency it should be noted that case law suggests that the Council should always consider whether contracts of this value could be of interest to contractors in other EU member states, and if it could, the opportunity should be subject to a degree of European wide advertising.

- 4.5.3 It is up to the Council to decide what degree of advertising would be appropriate. In particular, consideration should be given to the subject-matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices, etc.) and the geographical location of the place of performance.

- 4.5.4 The Director of Resources and Housing has considered this and, due to the nature of the specialist works being delivered, the fact that this is a pilot scheme and the relatively low value of the works to be undertaken is of the view that the scope and nature of the works is such that it would not be of interest to providers in other EU member states.

- 4.5.6 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.
- 4.5.7 In making their final decision, the Director of Resources and Housing should note the above comments and be satisfied that the course of action chosen represents best

4.6 Risk management

A number of factors have been taken into consideration when putting forward this request to waive Contract Procedure Rules. The risks assessed are as follows:

- 4.6.1 The company has provided separate quotes for the work to the chute and the scaffolding to the building required for access. While the work for the chute is not time qualified, under the heading 'extra over optional items' the company has specified that delays caused by lack of access, discovery of asbestos or any other reason not the responsibility of Hardall will be charged at day rates. The scaffolding quote covers a maximum of 16 weeks and additional weekly charges will be made if work should exceed this length of time. There is therefore a risk that spend may be higher than anticipated if the project lasts longer than expected. However, as some additional time is already built in over the estimated time the project should last, good site management should mitigate the risk of this happening.
- 4.6.2 Further delaying this work may result in a higher quote for the same work, especially as it seems that none of the companies which replied to the market sounding exercise will be able to supply scaffolding, and would therefore likely include this as part of their quote.

5 Conclusions

- 5.1 The appointment of Hardall International Ltd will guarantee that the work is done at a reasonable viable cost based on similar works, and it is likely that due to their previous experience with other local Councils they will carry out the work satisfactorily.

6 Recommendations

- 6.1 The Chief Officer Property & Contracts is recommended to approve the waiver of contract procedure rules 9.1 and 9.2 – high value procurements - in order to award a contract to Hardall International Limited to carry out works at a cost of £191,920 to Poplar Court (Block 2) as part of a pilot bin chutes replacements scheme that is expected to commence in September 2019 and complete in late January 2020.

7 Background documents

- 7.1 Background documents quoted:

Leeds High Rise Strategy 2016

High Rise Strategy Implementation Update – November 2017

Update on the delivery of the Leeds High Rise Strategy – 25 July 2018, item 3.4.6.