

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Jacqui McShannon, Strategic Director of Children's Services in consultation with the Cabinet Member of Children's and Education and Strategic Director of Finance

Date: 13/11/2023

Subject: Contract Award of Capital Works for Connected Person's

Report author: Lesley Bell, Head of Programmes Children's Commissioning

Responsible Director: Amana Gordon, Operational Director of Children and Young People

SUMMARY

Since June 2018 we have been working to increase the capacity of a property to enable permanency for a family. Following two procurement exercises, to ensure best value, we are seeking approval to appoint a contractor to complete the works.

RECOMMENDATIONS

1. To note that Exempt Appendices 1 to 3 are not for publication on the basis that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).

That the Strategic Director of Children's Services in consultation with the Assistant Director of Legal Services:

2. Approves the Council entering into the deed of legal charge relating to the property, protecting the Council's interest.
3. Approves the Council entering into a licence to occupy and carry out works at the property.

That the Strategic Director for Finance and the Cabinet Member for Finance:

4. Approves the required budget as outlined in the *Financial Impact* to enable the contract to be awarded.

That the Strategic Director of Children's Services in consultation with the Cabinet Member for Children and Education:

5. Approves the award of the contract to Etec Contract Services Ltd for the completion of the works (subject to the deed of legal charge application having been submitted to the land registry for registration).
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Wards Affected: (Give the Wards directly affected, or “None” or “All”)

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	Working with colleagues from neighbouring boroughs and finding creative solutions to achieve the best outcomes.
Creating a compassionate council	Creating a safe and suitable family home and enabling families to stay together.
Doing things with local residents, not to them	Listening to the wishes of our children and their families and taking action.
Being ruthlessly financially efficient	Investing to achieve best outcomes for our children in a cost-effective manner.
Taking pride in H&F	Being a responsible and caring Corporate Parent.
Rising to the challenge of the climate and ecological emergency	Keeping our young people in their local community.

Financial Impact

Please see Exempt Appendix 2.

Legal Implications

The registered social landlord has agreed that if the placement breaks down within a five-year period from the date of completion of the works there would be a nomination right to the Council of a comparable unit. There will need to be a written agreement with the registered social landlord to give effect to this.

The works to the property will constitute a medium value contract under Contract Standing Orders. They will therefore need to be procured by an invitation to submit quotations through the e-tendering system or a call-off from a suitable framework or dynamic purchasing system.

The value is substantially below the threshold for the Public Works Contracts Regulations 2015 to be applicable so there will be no obligation to follow the advertising and competition requirements of the Regulations.

The Council has the power to enter into this arrangement as it is incidental to and facilitates its functions in relation to looked after children under the Children Act 1989.

*Implications completed by: John Sharland, Senior solicitor, contracts, and procurement john.sharland@lbhf.gov.uk
Dated 4 April 2023*

The registered social landlord has agreed to enter into a deed of legal charge in order to protect the Council's investment and a licence for the works to be carried out to the property.

Section 1(1) of the Localism Act 2011 provides that a local authority may do anything that individuals generally may do, even though they are in nature, extent or otherwise;

- a) unlike anything the authority may do apart from subsection (1):or
- b) unlike anything that other public bodies may do.

Section 111 of the Local Government Act 1972 provides that a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions. As stated at paragraph 7 above, entering into the legal charge and carrying out the works are incidental to and facilitates the Council's functions in relation to looked after children under the Children Act 1989.

Property implications completed by: Afshan Ali-Syed, Senior Property Solicitor, Property and Planning Team- afshan.ali-syed@lbhf.gov.uk. Tel: 07887651197. Dated 17/05/2023

Background Papers Used in Preparing This Report

None.

DETAILED ANALYSIS

Proposals and Analysis of Options

1. In 2021 the Director of Finance approved the decision to fund the build of a loft conversion and side extension of a property to support permanency and the positive impact that stability brings for children and young people and avoiding unnecessary care interventions and associated costs.
2. *John Rowan and Partners (JRP) LLP*, property and construction consultants were appointed to lead the procurement to secure a contractor to deliver the works on behalf of the Council. JRP were appointed to lead based on their technical expertise and were confident of the financial envelope approved was sufficient to complete the works required.
3. Following the development of a technical specification JRP ran the first tender exercise in 2022 via a framework of twelve suppliers. Only one bid was received at a costing higher than the expected and agreed financial envelope. Feedback indicated that suppliers were not attracted to bid for the works due to the resource required to submit the tender for an individual residential building extension.

4. As the bid was higher than expected it was decided to commence a second tender exercise through the Council's local supply chain to attract small/medium sized suppliers. Three bids were received with costings outlined in the exempt appendix, table 2. As in the case of the initial procurement exercise the bids were higher than expected, however, following discussions with JRP, it was advised that the quotes reflect the statutory regulations and building control requirements for a tender of this nature which became apparent during the planning process coupled with rising prices in the market.
5. JRP recommended awarding the works to the successful tenderer from the procurement, Etec Contract Services.
6. JRP have reported that: 'While we consider the prices received from the tenderers are higher than what we expect in the market, due to current market volatility we are experiencing that the contractors are allowing additional risk premium in their tender returns. Additionally, this is the second attempt in competitively tendering for these works and therefore we conclude the prices received are the best that we could achieve in the market.'
7. In light of this and in order to secure permanency and best outcomes for the children, officers are recommending awarding the works via the second procurement exercise to the contractor recommended by JRP.

Option 1: Approve the contract award to enable works to start (Recommended)

8. Although there is substantial initial outlay for this work, the investment continues to represent best value for the Council and remains in the best interest of the children. The cost of the works will be significantly less than paying for long term alternative care and will provide long-term stability and security for the children within a family setting.
9. The children have been settled with their family, attending local schools with regular contact with their family network. Social care has reported that the children are thriving and no longer require the ongoing support of the Children Looked After team.
10. The family however remain living in an overcrowded environment and permanency cannot be sought within the current living arrangements (as advised by the family courts). Therefore, even with the increased costs, proceeding with the works is the recommended option.
11. The award is subject to a deed of legal charge between the Council and the social landlord being agreed and registered. The purpose of the charge is to outline the agreement to commence the works and provide protection over the Council's investment.

Option 2: Do not agree to award the contract

12. Although consideration was taken over whether the council could seek 'better value' via a third procurement exercise, officers are not confident that works could be procured at a lower price. A third procurement exercise would delay

works from commencing which would have adverse impact.

13. If a decision was taken not to proceed with the works alternative homes for the children will need to be sought. As corporate parents this is not in the best interest of the children as well as being more costly to the local authority.
14. There is no guarantee that the children will not return to our care in the future. If this were to happen our investment in the property to mitigate future savings would be negated. Social Care do however feel confident in the current placement and its ongoing security.

Reasons for Decision

15. By awarding this contract, works can commence that will support and enable the permanency of these placements.

Equality Implications

16. This report recommends action which will benefit children in our care and as such the decision has a positive equality impact.

Lesley Bell, Head of Programmes, Children's Commissioning, April 2023

Risk Management Implications

17. The report recommends approval of funding capital works to enable a family to remain together and achieve permanence. This is in the best interests of the children concerned and is in line with the objectives of creating a compassionate council and being ruthlessly financially efficient.

David Hughes, Director of Audit, Fraud, Risk and Insurance, 14 April 2023

Climate and Ecological Emergency Implications

18. Alternative placements would likely have negative climate implications in terms of increased transport to ensure access to school and family network.
19. The property is not LBHF owned, but the new walls and roof will be insulated to current building regulations, new windows and doors will be A-rated. The heating system is subject to contractor design but as a minimum if the gas boiler is to remain as the main heating source, it will be upgraded to A-rated model.

Approved by: Hinesh Mehta, Head of Climate Change, 11/04/2023

LIST OF APPENDICES

- Exempt Appendix 1 - Rationale
- Exempt Appendix 2 - Finance implications
- Exempt Appendix 3 - Excerpt from Tender Report