

## CABINET

15 October 2019

<b>Title:</b> Gascoigne East Phase 2 – Appointment of Demolition Contractor	
<b>Report of the Cabinet Members for Regeneration and Social Housing &amp; Finance Performance and Core Services</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> Gascoigne	<b>Key Decision:</b> Yes
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<b>Accountable Director:</b> Ed Skeates – Development Director, Be First	
<b>Accountable Strategic Leadership Director:</b> Graham Cooke - Director of Inclusive Growth	
<b>Summary</b>  This report seeks approval to directly appoint the Main Contractor, Wilmott Dixon Construction, for the Gascoigne East Phase 2 Development to carry out the Demolition Phase of the project.  An initial tender exercise was carried out by Be First inviting 3 specialist Demolition Contractors to bid for the Demolition phase of the project. The difficulty in maintaining security and allowing the Main contractor to simultaneously co-ordinate utility diversions resulted in this proposal to allow the Main Contractor of take the handover of the site and appoint the demolition contractor.	
<b>Recommendation(s)</b>  The Cabinet is recommended to:  (i) Waive the requirement to tender in accordance with the Council's Contract Rules and agree that the Council proceeds with the direct award of Willmott Dixon Construction for undertaking the demolition phase of the Gascoigne East Phase 2 project for the total sum of £4,292,220 for the reasons set out in the body of this report; (ii) Authorise the Director of Inclusive Growth in consultation with Cabinet Members for Social Housing and Regeneration and Finance Performance and Core Services, the Director of Law and Governance and the Chief Operating Officer, to award and enter into the contract with Willmiott Dixon for the demolition at Gascoigne Phase 2; and (iii) Note that the financial and delivery details of this project have been separately approved as part of the Investment and Asset Strategy updated and reported to Cabinet on 17 September 2019 (minute 46).	

## Reason(s)

The recommendations are aligned to four elements of the new Council vision and priorities namely:

- Regeneration and development of the borough
- Housing Estate Regeneration
- Provision of affordable housing
- Community and social benefits

## 1. Introduction and Background

- 1.1 At Cabinet meeting 19/07/2016, Councillors approved proceeding with Gascoigne East Phase 2 of the estate redevelopment project. The project was also included in the Be First Business Plan approved by Cabinet on the 21<sup>st</sup> May 2019 and subsequently forms part of the Councils Investment and Asset Strategy, the last update of which was approved by Cabinet on 17<sup>th</sup> September 2019. Gateway 3 was achieved 13<sup>th</sup> February 2019.

Since July 2018 Be First have been progressing with the scheme and achieved Planning approval at Committee meeting 3/06/2019. A Main Contractor (Willmott Dixon Construction) has been appointed via the Be First Lot 2 Development Framework which was procured via a fully OJEU complaint process. The Lot 2 Framework consists of 3 top tier contractors who were all approached to tender and a formal Expression of interest was issued however, 2 declined to enter the mini-competition leaving only one and Willmott Dixon were appointed to undertake a Pre-Construction Services Agreement (PCSA) with a view to commencing Construction in Spring 2020, prior to appointment Willmott Dixon were required to complete the full Tender documentation.

In order to confirm Value for Money as the other Framework Members declined, the independent Quantity Surveying practise Stace LLP were appointed to undertake Cost Control for the entire project, they carried out a value for money assessment and report which was submitted to the Be First Management team for review and approval.

## 2. Proposal and Issues

- 2.1 The demolition phase was originally intended to be let via competitive tender to a specialist demolition contractor, although this mini competition was commenced Be First decided to cancel the tender process due to the following reasons: -

- Be First and LBBD officers found the vacant blocks were in an extremely hazardous condition due to high levels of illegal intrusion that had occurred during the years the area of the estate was being decanted. This included gas leaks, water leaks, Squatters, Drug paraphernalia, human and animal waste, Vermin infestation, properties in a high level of disrepair with broken Asbestos contaminating properties and communal areas.
- There were also instances of Arson which resulted in two serious fires.
- Five residents also remained on site at the time of possession

- A large number of services running through the site which would need to be left insitu during the demolition phase.

Due to these reasons, Be First considered it to be beneficial to utilise the experience of the Main Contractor in dealing with these issues. An added benefit is the early community engagement that could be realised with the main Contractor taking early possession of the site and being able to de-risk the main contract and the benefit realisation of undertaking additional enabling works concurrently with the demolition works. (A separate enabling package is currently being prepared for submission by officers which will generate programme savings of approximately 6 months).

Be First shared the Demolition tender details with the Main Contractor. They carried out a due diligence and pricing exercise with the Demolition tenderers and a price inclusive of the management of the contract was submitted by the Main Contractor which was in line with the agreed Framework rates and demonstrated value for money as independently verified by the cost controller as mentioned above. A decision to award report was submitted to the Director of Inclusive Growth for approval which was given on the 20<sup>th</sup> April 2019. See Appendix 1.

The site was handed over to the Main Contractor on the 28<sup>th</sup> May 2019. Works are now progressing on site with environmental clean and Asbestos removal in progress. Having the main contractor on site has already assisted with de-risking of the construction phase as possession of the site has allowed for investigative surveys to assist with detailed design and early engagement of statutory authorities.

The potential effect of late handover of the demolition contract has also been negated as the contractor will be able to undertake the enabling package at the same time as demolition approaches conclusion and has already programmed the demolition works to suit.

There is one occupied property currently on site as of the drafting of this report and the Contractor's liaison team is assisting Be First and LBBD with the management of the tenant on site. The tenant is due to move on 1<sup>st</sup> October to alternative accommodation but this has been a long and complex decant case so Court Action has also been pursued to ensure the programme can be maintained

### **3. Proposed Procurement Strategy**

#### **3.1 Outline specification of the works, goods or services being procured**

- 3.1.1 The work comprises of the demolition of blocks 58-63 St. Anne's, 31-75, 76-90, 91-99, 101-115, 116-139, 140-157 St. Margaret's and 1-70 Bamber House. Elements include the hoarding of the site, environmental clean, Asbestos removal, deconstruction of the buildings, disconnection/diversion of Services and tracking the site level ready for Enabling works and main Construction.

#### **3.2 Estimated Contract Value, including the value of any uplift or extension period**

- 3.2.1 £4,292,220

### **3.3 Duration of the contract, including any options for extension**

3.3.1 28<sup>th</sup> May 2019 – 31 April 2020 is the defined Contract period. An enabling Package is scheduled to commence in February 2020 subject to Gateway 4 approval.

### **3.4 Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016?**

3.4.1 N/A

### **3.5 Recommended procurement procedure and reasons for the recommendation**

3.5.1 Appointment of Main Contractor via Be First Development Framework Lot 2.

### **3.6 The contract delivery methodology and documentation to be adopted**

3.6.1 JCT Minor Works Contract 2016. This is a relatively simple Construction Contract and has been agreed by the Construction Management team, Be First Management, External Cost Controller and Employer's Agent and the Contractor as an appropriate way to administer the Contract.

### **3.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract**

Be First considered it to be beneficial to utilise the experience of the Main Contractor in dealing with the issues on the site caused by a long period of non-occupation. An added benefit is the early community engagement that could be realised with the main Contractor taking early possession of the site and being able to de-risk the main contract and the benefit realisation of undertaking additional enabling works concurrently with the demolition works. (A separate enabling package is currently being prepared for submission by officers which will generate programme savings of approximately 6 months).

### **3.8 Criteria against which the tenderers are to be selected and contract is to be awarded**

3.8.1 Not applicable - Contract directly awarded to Willmott Dixon

### **3.9 How the procurement will address and implement the Council's Social Value policies**

3.9.1 By utilising the Main Contractor for this works the overall contribution from the Contractor for its commitment to Social Value and Skills will be enhanced. Using a Contractor who is engaged in ongoing projects with the Council and Be First means that they are already committed to delivering long term results for the local community from their relationship with Be First,

### **3.10 Contract Management methodology to be adopted**

3.10.1 Be First Construction Management are overseeing the Project with the assistance of an external Employer's Agent and Cost Controller along with an internal Clerk of Works and Senior Construction Manager. The management of this includes monthly

progress meetings, Risk Management procedures, Daily site attendance, etc along with a monthly Project Overview meeting with senior Be First Management and reports fed back to the Client.

## **4. Options Appraisal**

4.1 Only two options are available –

- Letting a separate contract for the demolition via a Demolition tender, this was discounted due to the reasons outlined in this report.
- Engaging the Main Contractor to complete the Demolition – this is the preferred option to enable early site handover and continuity

## **5. Waiver**

5.1 This report seeks to waive contract rule 28.5, requiring contracts in excess of £50,000 to be subject to a competitive tender exercise, in that the award for the demolition element of works is being brought forward and directly awarded to the Main Contractor, Willmott Dixon.

The waiver is required to enable early handover to the Main Contractor to secure the site and demolish the vacant blocks realising efficiencies in not having two separate contractors undertaking the works as detailed in the report above. This achieves an early and consistent security for the site.

The grounds for the waiver are covered in part 4, Chapter 1 of the Councils Contract Rules, clause 6.6, (G) which states; the nature of the market for the works to be carried out of the goods or services to be provided has been investigated and is such that a departure from the requirements of Contract Rules is justifiable.

## **6. Consultation**

6.1 The Gascoigne project has developed a full engagement and consultation programme from its earliest inception, involving residents the wider community and a wide range of local stakeholders – its aim has been to engage all these groups across all the phases of development ensuring that their views shape the future development and in particular all effected residents are kept informed.

6.2 The proposals in this report were considered and endorsed by the Be First Board at their meeting on 1<sup>st</sup> July 2019

6.3 The Gascoigne East Phase 2 project has followed the gateway governance system agreed by Be First and the Council and achieved Gateway 3 on 13<sup>th</sup> February 2019.

## **7. Corporate Procurement**

Implications completed by: Euan Beales Head of Procurement

7.1 The Councils Contract rules require any contract spend over £50,000 to be formally tendered or provisioned through a compliant framework.

Both routes to market have been discounted through the recommendations in this report and the preferred route is a direct award to the main contractor, this process is permissible through the Contract Rules

- 7.2 The threshold for works is currently £4,551,413 and is only £259,193 below. This does not leave much room for any additional costs, so I recommend that the costs are capped as the right to waive EU legislation would need full justification.
- 7.3 The procurement route is retrospective and as such has not been competed in a competitive environment so, a full value for money statement cannot be outlined.
- 7.4 The recommendations being made are within the requirements of the Contracts Rules, but this element could have been considered during the initial award of the main contractor, as the report does not make it clear if 2 management fees are now being provided for in the costs.
- 7.5 It should be noted that the initial process was a mini competition through a compliant framework, which has now been amended to reflect the direct award after consideration of the main contractor's status on the site, this again draws reference to how value for money can be achieved, tracked and recorded through the demolition process.

## **8. Financial Implications**

Implications completed by: David Dickinson Investment Fund Manager

- 8.1 The Gascoigne East Phase 2 (GEP2) forms part of the 44 schemes agreed as part of the Acquisitions and Investment Strategy. The demolition and site preparation proposed in this report will clear the site for the three blocks of the GEP2 (C, E and F) and the costs will be apportioned across each block.
- 8.2 The report seeks the appointment of Willmott Dixon Construction to undertake the demolition phase of the GEP2 project. The total costs for the demolition will be £4.29m. This includes costs of £1.01m for asbestos removal and £0.56m for service disconnections and diversions. These costs are within the revised budget agreed for GEP2.
- 8.3 GEP2 is an important part of regeneration of the area, in providing 526 good quality homes to the borough and in providing a return to the Council's investment and acquisition strategy, with completion scheduled for April 2022. It is essential that progress around site preparation and then construction of GEP2 remains on schedule to ensure that these targets are met. The awarding of this contract is a key part in the ensuring that key milestones are met.

## **9. Legal Implications**

Implications completed by: Kayleigh Eaton, Senior Contracts and Procurement Solicitor, Law and Governance

- 10.1 This report is seeking Cabinet's retrospective approval to waive the requirement to tender and directly award a contract for demolition at Gascoigne Phase 2 to Willmott Dixon.

- 10.2 The works have been costed at £4,292,220 which is just below the OJEU threshold for works contracts (currently set at £4,551,413) set out within the Public Contracts Regulations 2015 ('the Regulations'). Notwithstanding that the contract is currently outside the remit of the Regulations, the Council still has a legal obligation to comply with the relevant provisions of the Council's Contract Rules and with the EU Treaty principles of equal treatment of bidders, non-discrimination and transparency in conducting the procurement exercise.
- 10.3 It is noted that the demolition phase was originally intended to be let via a mini competition using a selected tender list<sup>[00]</sup>, however for reasons set out in the body of the report it was subsequently decided to cancel this process and directly engage with Willmott Dixon who are the main contractor for this development. This therefore requires a waiver on the Council's contract rules as any contract above £50,000 is required to be subject to a competitive tendering exercise. Contract Rule 6.3 permits Cabinet to grant waivers in excess of £500,000 providing it is satisfied that the justification for such waiver is sound and that it is in the Council's overall interests.

## 10. Other Implications

- 10.1 **Risk Management** - Will be managed through Be First Risk Management process. Main risks and mitigation listed below.

RISK	IMPACT	LIKELIHOOD	MITIGATION	IMPACT	LIKELIHOOD
Services disconnection delays	4	5	Main Contractor to manage with their own established partners and Contacts	2	2
Security of Site - Intruders	4	4	Enhanced security protocols in operation, Control measures for access	2	2
Safety – Deconstruction of High-Rise Block in close proximity to Main Access Road, Asbestos Removal, high levels of Contamination.	5	3	Demolition Sub-Contractor must meet Main Contractor's standards of work. Additional level of Control measures in place via use of Contractors permit to work system ensuring all method statements, etc are scrutinised first.	5	1
Poor Community engagement	3	4	Main Contractor already working with Local schools, Advisory Groups, community in advance of main contract commencing in 2020.	1	1

- 10.2 **Contractual Issues** - As per report.
- 10.3 **Corporate Policy and Equality Impact** - Demolition of the existing blocks of flats is required to deliver Phase 2 of the Gascoigne East a long term regeneration project that aims to improve the quality of the housing provision in this area, high levels of affordable homes, open space, community facilities and the new Greatfields School will be delivered as part to the wider regeneration programme.
- This is consistent with the independent Growth Commission's recommendations for the borough to continue bringing forward redevelopment which will help encourage further regeneration and investment. The delivery of the scheme will help deliver the aspirations of the Council's vision and corporate policies. The Scheme which will be enabled by the demolition is also consistent with the Council's planning policies.
- 10.4 **Safeguarding Adults and Children** - These issues were considered as part of the original planning approval and the Equalities Impact Assessment in relation to the Estate Renewal Programme.
- 10.5 **Health Issues** - Following demolition, the new scheme itself presents an opportunity for improving health and reduced health inequalities through social and economic regeneration, improved public realm, e.g. walking and cycling and future health and care facilities.
- 10.6 **Crime and Disorder Issues** - These were considered as part of the planning application decision making. The Scheme will improve crime prevention through its design which improves natural surveillance.
- 10.7 **Property / Asset Issues** – The approval for the demolition of these properties held within the Councils Housing Revenue Account was approved in the original report to Cabinet on 19<sup>th</sup> July 2016, along with the strategy for delivery of the new homes within the Councils Reside delivery vehicle. .

**Public Background Papers Used in the Preparation of the Report:**

- Minutes Cabinet 19<sup>th</sup> July 2016
- Minutes Cabinet 21<sup>st</sup> May 2019

**List of appendices:**

- Appendix 1 – Decision to award a Contract form signed by Director of Inclusive Growth