



NORWICH City Council

Committee Name: Cabinet

Committee Date: 12/01/2022

Report Title: Development of Three Score Phase 3

Portfolio: Councillor Harris, Deputy leader and cabinet member for social housing

Report from: Executive director of development and city services

Wards: Bowthorpe

**OPEN PUBLIC ITEM
KEY DECISION**

Purpose

To consider the award of contract and delegated decisions for the development of Three Score phase 3.

Recommendation:

To:

1. Award the contract for the development of council homes at Three Score Phase 3 to RG Carter Ltd, subject to the details in the exempt appendix to this report; and
2. Delegate all matters incidental to the development of social housing at Three Score phase 3, including the use of the contingency and subject to the limits set out in the exempt appendix, to the executive director of development & city services, in consultation with the executive director of corporate & commercial services, the cabinet member for social housing and the cabinet member for resources.

Policy Framework

The Council has three corporate priorities, which are:

- People living well
- Great neighbourhoods, housing, and environment
- Inclusive economy

This report meets the Great neighbourhoods, housing, and environment corporate priority

This report addresses the build and maintain a range of affordable and social housing strategic action in the Corporate Plan

This report helps to meet council housing strategy adopted policy of the Council

This report helps to meet the housing, regeneration, and development objective of the COVID-19 Recovery Plan

Report

Background

1. On 14 April Cabinet considered various contract awards in relation to the development of 3 score phase 3.
2. Cabinet agreed to delegate a decision to direct award a pre-construction services agreement (PCSA) to RG Carter Ltd to officers, subject to financial limits. This contract has now been awarded and work has been delivered for the agreed contract sum.
3. Cabinet also agreed to delegate authority to direct award RG Carter Ltd the construction contract for the development of social housing at the site subject to financial limits. The report explained that direct award was appropriate in these circumstances as recognised that utilising the work of RG Carter from Rayne Park, and having them mobilised on the adjacent site, offers the potential for significant efficiencies and opportunities for quick delivery in continuing to work with them on phase 3.
4. Efficiencies identified include:
 - a. continuity in contractor team members and directors will result in open book pricing, and therefore a reduced contract price, as risk is understood.
 - b. construction and buildability advice of existing team. Phase 3 is proposed to utilise similar construction details as Phase 2.
 - c. accelerated programme will be achieved as the existing team on site will be able to respond swiftly with commencing the works.
 - d. concurrent preliminaries with the existing Rayne Park development and avoiding site establishment costs.
 - e. there is an opportunity for us to negotiate with their existing supply chain on Rayne Park and freeze the rates being used.
 - f. the quality expectations set by the client demonstrates that there is an understanding of what's required by RG Carter, with known design standards and established patterns of development used on phase 2. This allows the successes of this development to be replicated and contractor to be able to utilise experience of building these forms of development previously significantly reducing risk.
5. The report explained it was expected to use the Pagabo framework to make the award. Pagabo are a framework provider who have a number of OJEU compliant frameworks open to the public sector. These frameworks allow both direct award of contracts and mini competition tenders. Officers have carried out due diligence with Pagabo who have provided evidence sufficient to satisfy us that a direct award from their framework is compliant within Public Contract regulation. RG Carter are on the Pagabo Medium Works framework for contracts up to £10m.

Progress

6. The PCSA contract was awarded to RG Carter Ltd, and work is now complete. This work involved carrying out detailed design and cost planning to create a fixed final design. The final design is for a reduced number of 76 dwellings, of which 52 are designated for council homes and 24 will be delivered via a separate contract as homes for open market sale via Norwich Regeneration Ltd (NRL). The total number of homes to be delivered on the site has reduced from 83 reported in April, 58 designated council homes and 25 open market via NRL, due to detailed work on the site constraints, with the topography of the site causing some particular challenges.
7. The work has also included providing a more detailed cost plan to inform the financial modelling that is set out in the exempt appendix to this report.
8. The reserved matters planning application was approved unanimously at planning committee in October with the formal decision being issued on 21 October 2021. (See Appendix 1 for images of the proposed development)
9. The detailed specifications and build standards have evolved during the technical design phase, with a refinement of the Fabric First enhancements to future proof the development, with design informed by Passivhaus principles. Work has also been carried out to ensure it is fully compatible with the standards in the emerging Greater Norwich Local Plans.
10. The specification allows for triple glazed windows, air-source heat pumps in place of gas, mechanical ventilation heat recovery systems and high levels of air tightness, all of which exceed the building regulations for 2025 and are part of the journey towards delivering net zero carbon in the future. These standards will offer considerable savings to future tenants on their fuel bills.
11. The development will also deliver homes well in excess of minimum space standards required by the building regulations and in excess of the guidance contained in the nationally described space standards, with most properties allowing for 10% more than required. This will provide significant benefits to tenants with more home working becoming the norm during the pandemic.

Build Costs

12. Each development that the council undertakes uses the RIBA phases as gateways to proceed. It should be understood that at each stage, design and cost certainty becomes more fixed and that at early stages the quantity surveyor will use standard build cost indices to provide cost estimates. Once the design becomes fixed at RIBA stage 3, a contractor can provide real cost information, based upon testing the market with suppliers and sub-contractors at RIBA stage 4. This is a significant benefit of the 2-stage design and build contract process.
13. A detailed cost plan has now been prepared using the fixed design from RIBA stage 3 and the detailed technical work undertaken as part of the PCSA (RIBA stage 4). This is showing a significant uplift in the build costs from what was reported in April and now the development cannot be delivered within the costs

limits that were set in the April report.

14. The cost increase that has come about from the greater level of information available about the design and build standard has been exacerbated by more general inflationary costs pressures that have been seen in the construction sector. This general cost pressure has been well publicised and is not unique to Norwich.
15. The RIBA stage 2 design report was based on costs at the time, in April 2021. Since April, to December 2021, the BCIS has recorded a Tender Price Inflation of +7%. Further, there is then an anticipated Build Cost Inflation from Jan 2022 to April 23 of circa +2%. What this means in actual terms is that since RIBA Stage 2 and RIBA Stage 3 costs estimates have experienced an inflationary adjustment pressure of circa +9% according to the BCIS (Building Cost Information Service).
16. That is an average across the industry, with materials such as timber frames, bricks and plaster(board) being significantly above 9% and others below. It's worth adding that in contrast to the BCIS forecast, AECOM are currently predicting that baseline forecast tender price increases will continue with +4.4% for Q4 - 2021 to Q4 - 2022, then a further 4.2% Q4 - 2022 to Q4 - 2023. This is considerably beyond the +2% standard BCIS forecast.
17. In the light of these inflationary increases, it is considered that the previously agreed approach of seeking to use fixed sum contracts to deliver the development remains the preferred approach. The 2-stage approach to contracting allows Council Officers to work with the main contractor on their sub-contracting and materials procurement which gives the council full open book assessment of the supply chain.
18. The fixed cost sum was programmed to ensure further mitigation of cost increase of typical annual cost increase in the supply chain that can be evidenced historically in Q4 of a financial year, with or without the challenges brought about through Brexit and Covid19.

Procurement

19. As detailed in paragraph 5 the favoured approach in April was to direct award a contract to RG Carter utilising the Pagabo medium works framework, which has a limit of £10m.
20. At the point of entering into the pre-construction arrangement with RG Carter the cost plan had a construction phase at below £10m. It is widely recognised within the design and build process that during the pre-construction phase a cost plan is likely to vary. In the current market significant inflationary pressures on cost of materials and sub-contract labour are being observed as the predominate challenge facing all projects around the Country.
21. Pagabo have confirmed that they do not require Norwich City Council to re-procure when the cost plan takes it over £10m. The value that matters is at the point of the procurement in the Pagabo framework process, which in this instance was below the £10m threshold.

22. RG Carter Ltd are considered to have demonstrated best value to the council with an open-book approach to quotes for work packages from sub-contractors and suppliers, through limiting their overheads and profit percentage below that which they received for both Rayne Park and Goldsmith Street and through their reduced preliminaries costs as they are already mobilised on site.
23. Options for the site have been explored, including direct award to RG Carter on a fixed sum, direct award with provisional sums, open tender, pausing the project and disposal of the site. The advantages and disadvantages of each have been considered and the analysis is detailed further in this report in the options section.
24. Overall, the preferred option is to still direct award the contract to RG Carter on a fixed sum contract.
25. The cost is still considered value for money in the current market and any delay would impact on HRA programme for delivery and the use of retained Right to Buy Receipts. In addition, the construction market remains uncertain but projections are further costs increases before stabilisation so entering into a fixed sum contract will limit our risks further.

Implications

Financial and Resources

26. Any decision to reduce or increase resources or alternatively increase income must be made within the context of the council's stated priorities, as set out in its Corporate Plan 2019-22 and Budget.
27. Officers have modelled the costs for the financial business case, and this is detailed in the exempt appendix. The project is deliverable within the current approved budget of £14.58m and within the overall HRA business plan, however, the number of social dwellings has reduced significantly from the originally proposed number of 83 to 52. A further 24 dwellings for market sale are proposed for delivery by NRL outside of the HRA funding.
28. Previously a specific development was modelled within a term of 50-year pay back and then reviewed against the 30-year HRA business plan. Details of this modelling is set out in the exempt appendix and it has been confirmed the development fails to reach a payback term of 50 years. Although the development does not impact greatly the affordability of the current overall 30-year HRA Business Plan, it should also be noted that modelling is highly sensitive to borrowing rates and that a 2% interest rate has been assumed. If borrowing from PWLB at 2% is not required, then the payback period would significantly reduce.
29. The existing budget for the development is currently £14.58m and whilst there has been a reduction in numbers of properties when this was approved, the current development budget is still within this overall amount with a revised requirement of £14.43m. This is the total of all costs including design, construction, contingency and management of the development.

30. The continuation of this project reduces the risk of having to pay retained RTB receipts to central Government that are currently held for this project and associated interest.
31. Costs have been incurred to date for delivery of the HRA apportionment of the planning strategy, development design costs, the PCSA, and employer's agent / quantity surveying fees. Should the project not proceed these will become abortive costs and there is a risk that these costs may not be capitalised and become revenue costs to the HRA.

Legal

32. The main legal consideration is the direct awarding of the contract to RG Carter through the Pagabo framework. As detailed above procurement officers have confirmed with Pagabo that the process is compliant with public procurement regulations and liaison with the Council's legal team will continue as part of the contract awarding process.
33. Further options have been considered and the advantages and disadvantages of each are explored further in the report below.

Statutory Considerations

Consideration	Details of any implications and proposed measures to address:
Equality and Diversity	None
Health, Social and Economic Impact	<ul style="list-style-type: none"> • This project will provide local employment opportunities, opportunities for local suppliers and sub-contractors and will generate local spending for the benefit of the wider economy. Providing more housing is important in supporting sustainable economic growth and prosperity • Providing additional affordable housing will advance financial inclusion by helping to improve housing affordability for residents. • The provision of sufficient and high-quality housing is essential to ensuring decent levels of health and well-being.
Crime and Disorder	<ul style="list-style-type: none"> • The site will be developed in line with Secure by Design principles
Children and Adults Safeguarding	None

Consideration	Details of any implications and proposed measures to address:
Environmental Impact	<ul style="list-style-type: none"> • The new dwellings will be energy efficient • The design for the development includes the creation of amenity space for the new dwellings, both private and public.

Risk Management

Risk	Consequence	Controls Required
<p>Financial</p> <p>Possible to pay a Risk premium through RG Carter owning build cost inflation risk</p> <p>Negotiation of the works packages requires resource for detailed reviews to ensure value.</p> <p>Potential for additional costs from unforeseen items such as issues with ground conditions etc.</p>	<p>Increase in costs</p> <p>May need increase in costs for quantity surveyor to monitor</p> <p>Increase in costs</p>	<p>Collaborative working with main contractor means this is a low risk and officers will continue to monitor any risk premiums being added.</p> <p>Low risk as element of this work is included in current contract. Contingency held.</p> <p>£1.27m contingency held</p>
<p>Legal</p> <p>Legal challenge to compliance with public procurement regulations</p>	<p>Delay in awarding contract</p>	<p>Pagabo and procurement officers have confirmed that the direct award is compliant with PPR so deemed very low risk</p>

Options Considered:

A - Direct Award to RG Carter on a Fixed Price contract	
Advantage	Disadvantage
Quick- Able to overlap works	Possible to pay a Risk premium through RG Carter owning build cost inflation risk; albeit this can be monitored
Able to use the existing RGC team and	Negotiation of the works packages

transfer the knowledge of build options, but also working knowledge of the processes etc.	requires detailed reviews to ensure value.
Associated with the knowledge and the overlap in programme activity there are efficiencies and savings available, which are unique to the Direct Award of RG Carter option.	Low risk of challenge from other contractors over the direct award to RG Carter.
Transparency through the procurement process and ability to benefit from RG Carter local supply chain, and local labour pool to deliver value	
Call off via the Pagabo Framework secured RG Carter at very competitive, previously procured OH&P fixed for the duration of the contract	
RG Carter take inflationary and supply chain risk via the Fixed sub (except for contractual relevant matters)	
A negotiated package tender raises all issues early, so that the contract sum is tested and post contract generally is less contractual and claims conscious	

B - Direct Award to RG Carter with items held as provisional sums	
Advantage	Disadvantage
Quick-able to overlap works	Provisional Sum areas would remain Norwich City Council risk - this could be to our financial benefit or detriment
Knowledge: Able to use the existing RG Carter team and transfer the knowledge, both working of the build options, but also working knowledge of processes etc., to the benefit of overall time, cost and quality	Negotiation of works packages requires detailed reviews to ensure value
Associated with the knowledge and overlap in programme activity there are various efficiencies and savings available which are unique to the Direct Award of RG Carter option	Volatile supply chain at present and there is demonstratable evidence that this will continue through the life of this contract
Transparency through the procurement process and ability to benefit from RG Carter supply chain to deliver value	A volatile supply chain and waiting to agree sub-contractor sums via a provisional sum is high risk at this moment due to increasing costs and not advised by the Delivery Director.
Call off via Pagabo secured RG Carter at very competitive rates, previously procured 3.5% OH&P rates	
RG Carter take inflationary and supply	

chain risk for the fixed sum elements.	
A negotiated package tender to raise all issues early, so that the contract sum is tested and post contract generally is less contractual and claims conscious	

C - Tender a Contract either via open tender or by using a framework	
Advantage	Disadvantage
Tests wider market from their purchasing power. There is the possibility for some low tenders, albeit this may present a risk due to variation later in the delivery of the contract	Timescales for competition via tender or mini competition would have necessitated a longer procurement period, impacting the start date on site date
Reduced risk of challenge from other contractors	The design information produced by the Client is not at a level of detail suitable to tender, it was designed for negotiation via PCSA and indeed fair to tender on as one contractor is already aware of key details.
	Procured contract can become contractual post contract, which undermines the initial cost led procurement exercise
	May not secure contractors with the same knowledge base as the negotiated offering and hence costs are inevitable going to appear through variation of contract increasing overall cost of the development
	Stepping away from negotiations via the PCSA would erode the value/savings that concurrent working via a 2-stage approach would have with RG Carter and cost council (and NRL) abortive costs that cannot be recovered
	Risk of underspend of RTB Receipts and potential of having to pay interest on these.
	Slowing of housing delivery and addressing the wider issues of housing needs

D - Pause the project	
Advantage	Disadvantage
Would allow time to reflect on alternative delivery strategies for the development.	High risk of underspend of RTB receipts and payment of punitive interest.
Would allow time for prices to stabilize and potentially reduce within the market post Brexit	Slowing of housing delivery and addressing the wider issues of housing needs
	Stepping away from negotiations via the PCSA would erode the value/savings that concurrent working via a 2-stage approach would have with RG Carter and cost council abortive costs.
	Industry commentary is that construction costs will not return to pre-pandemic or Brexit levels and will continue to rise in the short to medium term.

E - Dispose of the site with planning approval	
Advantage	Disadvantage
Would generate a capital receipt for the council	High risk of underspend of RTB receipts
	A loss of control over housing delivery and addressing the wider issues of housing needs.
	Stepping away from negotiations via the PCSA would erode the value/savings that concurrent working via a 2-stage approach would have with RG Carter and cost council abortive costs that cannot be recovered
	Industry commentary is that construction costs will not return to pre-pandemic or Brexit levels and will continue to rise in the short to medium term.

Reasons for the decision/recommendation

34. For the reasons detailed in this report, and the exempt appendix, it is concluded that:

- The total costs of undertaking the development proposed have unavoidably risen beyond the previously agreed limits, and in the current market the proposed contract value still represents good value for money.
- The proposed development remains affordable to the HRA.
- The previously preferred approach of using a fixed price design and build

- JCT contract remains the preferable approach to procurement.
- The increased sum is still compliant with the Pagabo procurement framework.

35. Cabinet is therefore recommended to:

1. Award the contract for the development of council homes at Three Score Phase 3 to RG Carter Ltd, subject to the details in the exempt appendix to this report.
2. Delegate all matters incidental to the development of social housing at Three Score phase 3, including the use of the contingency and subject to the limits set out in the exempt appendix, to the executive director of development & city services, in consultation with the executive director of corporate & commercial services, the cabinet member for social housing and the cabinet member for resources.

Background papers:

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Appendices: one - site images

Appendix 1 – Site images

