

To: All Members of the CO-PORTFOLIO
HOLDER FOR HOUSING DECISIONS

When calling please ask for:

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Date: 30 November 2022

Membership of the Co-Portfolio Holder for Housing Decisions

Cllr Paul Rivers

Dear Councillors,

A Special meeting of the CO-PORTFOLIO HOLDER FOR HOUSING DECISIONS will be held as follows:

DATE: WEDNESDAY, 30 NOVEMBER 2022

TIME: 4.00 PM

PLACE: COUNCIL CHAMBER, COUNCIL OFFICES, THE BURYS,
GODALMING

The Agenda for the Meeting is set out below.

Yours sincerely

Stephen Rix,
Executive Head of Legal & Democratic Services (Interim) & Monitoring Officer

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NOTES FOR MEMBERS

Contact Officers are shown at the end of each report and members are welcome to raise questions, make observations etc. in advance of the meeting with the appropriate officer.

Prior to the commencement of the meeting, the Co-Portfolio Holder to respond to any informal questions from members of the public, for a maximum of 15 minutes.

[Questions will be taken in the order in which questioners register with the Democratic Services Officer prior to the start of question time. When read out, each question must be concluded within 2 minutes. In the event that it is not possible to give a verbal response, a written response will be provided following the meeting.]

AGENDA

1. **MINUTES**

To approve the minutes of the Co-Portfolio Holder Decisions taken on 5 July 2022, published on the Council's website.

2. **DECLARATIONS OF INTERESTS**

To receive from members, declarations of interest in relation to any items included on the agenda for this meeting, in accordance with the Waverley Code of Local Government Conduct.

3. **APPROVAL TO AWARD INTERIM DOMESTIC GAS HEATING CONTRACT**
(Pages 5 - 12)

[Portfolio Holder: Portfolio Holder for Housing (Operations)]

The purpose of this report is to recommend to the Co-Portfolio Holder for Housing that approval is given for officers to award a domestic gas heating, servicing, and maintenance contract on an interim basis.

The contract will be award on an interim basis for a period of 18 months with the ability to extend for a further 12 months.

The estimated contract value over the term is £1,305,000 (18 months) and £2,175,000 (if the extension of 12 months is included).

This contract will enable the Council to fulfil its statutory duty as a landlord subject to the Gas Industry and Use Regulations 1998, to manage and maintain a gas appliance(s) in the properties it owns.

Recommendation

2.1 It is recommended that Co-Portfolio Holder for Housing approves that officers can proceed to the award of the Domestic Gas Heating, Servicing and Maintenance contract.

2.2 The tender evaluation report is attached in Annex 1

4. EXCLUSION OF THE PRESS AND PUBLIC

To consider the following recommendation on the motion of the Co-Portfolio Holder for Housing:-

Recommendation

That, pursuant to Procedure Rule 20, and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item(s) on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during these items, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified at the meeting in the revised Part 1 of Schedule 12A to the Local Government Act 1972.

5. ANY OTHER ISSUES TO BE CONSIDERED IN EXEMPT SESSION

To consider matters (if any) relating to aspects of any reports on this agenda which, it is felt, may need to be considered in Exempt session.

**For further information or assistance, please telephone
Louise Fleming, Democratic Services and Business Support Team
Manager (Deputy Monitoring Officer), on or by email at
louise.fleming@waverley.gov.uk**

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WAVERLEY BOROUGH COUNCIL

CO-PORTFOLIO HOLDER FOR HOUSING DECISION

30 NOVEMBER 2022

Title:

Approval to Award Interim Domestic Gas Heating Contract

Portfolio Holder: Cllr Paul Rivers, Co-Portfolio Holder for Housing

Head of Service: Andrew Smith, Executive Head of Housing Services

Key decision: Yes

Access: Public

1. Purpose and summary

- 1.1 The purpose of this report is to recommend to the Co-Portfolio Holder for Housing that approval is given for officers to award a domestic gas heating, servicing, and maintenance contract on an interim basis.
- 1.2 The contract will be award on an interim basis for a period of 18 months with the ability to extend for a further 12 months.
- 1.3 The estimated contract value over the term is £1,305,000 (18 months) and £2,175,000 (if the extension of 12 months is included)
- 1.4 This contract will enable the Council to fulfil its statutory duty as a landlord subject to the Gas Industry and Use Regulations 1998, to manage and maintain a gas appliance(s) in the properties it owns.

2. Recommendation

- 2.1 It is recommended that Co-Portfolio Holder for Housing approves that officers can proceed to the award of the Domestic Gas Heating, Servicing and Maintenance contract.
- 2.2 The tender evaluation report is attached in Annex 1

4. Background

- 4.1 On 12th October 2022 the Council formally issued a letter of termination to Central Heating Services Ltd and its parent company, Greenview Gas, under the “no blame” clause within the TPC contract.
- 4.2 The termination gave notice that the contract would formally end on 31 January 2023 - a period just over the contractually required 90 days’ notice.
- 4.3 In the intervening period officers have been intensively contract managing the incumbent contractor to ensure that statutory requirements and service to our tenants is not negatively affected.

- 4.3 Officers have also engaged in a procurement exercise through a framework organisation to award an interim contract to manage the domestic gas heating, servicing and maintenance works for our tenants.
- 4.4 A procurement exercise was conducted and due diligence carried out and an organisation - Smith & Byford – selected as the preferred bidder.
- 4.5 To ensure adequate mobilisation and handover time, facilitate TUPE transfer arrangements and enable the contract investment costs to be agreed the incoming contractor required a signed document in order to proceed.
- 4.6 To meet the mobilisation and contract 'go live' timescales, the contract must be sealed by 30 November 2022.
- 4.7 Following discussing with Legal colleagues and review of the scheme of delegation and Contract Procurement Regulations Co-Portfolio Holder for Housing is being asked to exercise powers delegated under the Constitution to allow for the award of this contract.

5. Relationship to the Corporate Strategy and Service Plan

The report supports the Council's Corporate commitment to promote "*Good quality housing for all income levels and age groups*"

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

The budget is available within the Housing Revenue Account (HRA) to cover the additional contract costs in 2022/23. The service has requested growth in the Domestic Gas Heating, Servicing and Maintenance budget for 2023/24 which will cover the cost of this contract. The budget for 2023/24 is due to go to Council in February 2023 for approval.

6.2 Risk management

Risks for the service are classified as Financial, Legal/Regulatory, Safety, Service Delivery or Reputational. The Corporate Risk Register reports, manages and mitigates risks to the HRA.

6.3 Legal

6.3.1 It is understood the procurement process was compliant with relevant legislation and the Council's contract procedure rules.

6.3.2 The Executive Co-Portfolio Holder for Housing (Operations) has delegated authority to approve all matters falling within the Housing Landlord Service and within the agreed Budget and Policy Framework and has delegated authority to make the decision.

6.4 Equality, diversity and inclusion

NA

6.5 Climate emergency declaration

NA

7. Consultation and engagement

7.1 The Co-Portfolio Holder for Housing has been updated.

7.2 All members of the Executive, the chairs of the Resources Overview & Scrutiny Committee, the Audit, and Standards & General Purposes Committees have all been briefed in advance of the report's publication.

8. Other options considered

8.1 This is a regulatory requirement and therefore the option to do nothing or delay this work is not feasible

9. Governance journey

9.1 The report has been shared with the Corporate Management Board and will go forward to the Co-Portfolio Holder for Housing for a decision.

9.2 As notice of the key decision was not placed on the Forward Plan for the requisite 28-day period, nor was it possible to call a meeting with 5 clear days' notice before the deadline to award the contract, the agreement of the Co-Portfolio Holder for Housing has been sought and obtained to call a meeting with less than 5 clear working days' notice. In addition, the agreement of the Chair of the relevant Overview and Scrutiny Committee has been sought and obtained to take the urgent key decision in accordance with Part 4.2 of the Constitution (Access to Information Procedure Rules). In addition, the Chair of the Audit Committee has also been fully briefed.

9.3 The Mayor's agreement has been sought and obtained to treat this as an urgent decision, which will not be subject to call in by the relevant overview and scrutiny committee pursuant to paragraph 11.4 (Call-in and Urgency) of the Overview and Scrutiny Procedure Rules. This is because the time it would take to allow any call in to be made and dealt with would clearly exceed the deadline to award the contract. Given this, it is considered that a delay caused by the application of the call-in process would seriously prejudice the Council's and the public's interests in this matter.

Annexes: Gas Tender Outcome Report

Background Papers

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

CONTACT OFFICER:

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Agreed and signed off by:
Legal Services: Ian Hunt/Stephen Rix
Head of Finance: Peter Vickers
Strategic Director: Annie Righton

**REPORT ON TENDER
FOR
Domestic Gas Maintenance Contract
FOR
WAVERLEY BOROUGH COUNCIL OFFICES,
THE BURYS, GODALMING, SURREY, GU7 1HR
29th November 2022**

1.0 INTRODUCTION

Waverley Borough Council has a statutory duty as a Landlord within the Gas Industry and Use Regulations 1998, to manage and maintain a gas appliance(s) within the property it owns. To date this work has been undertaken by the company CHS (Central Heating Services Ltd). The need to reprocur was centred on CHS's, poor performance contractually, and diminishing financial standing and the fact that the issues combined compromised Waverley Borough Councils ability to maintain regulatory compliance in terms of gas safety.

The timescales to negate risks associated with failure to provided heating, as outlined in the in the Decent Homes Standard section 4.6, which states the requirement for Waverley Borough Council to provide both effective insulation and efficient heating, for the dwellings it is responsible for and Gas Safety as defined in the Gas Industry Installation and Use Regulations 1998 section 36 Duties of a Landlord, dictated the use of a Framework to direct award the contract to a suitable and competent Contractor.

2.0 Direct Award

The contract was awarded to the Company Smith & Byford Ltd:

1. The company was incorporated in September 1972 (50 Years Old)
2. The company's area of operation includes electrical installation, BMS design and installation, plumbing, heat, and air-conditioning installation.
3. In March 2021 they reported a £30,604,967 turnover/ Operating profit £2.1m/ Gross margin 44.7%/ Profit after tax £1,781,008
4. The company has 365 employees – employee costs £14,103,133

3.0 Contract Value

The contract has an estimated value £1,305,000 for 18 months and a total of £2,175,000 if the 12 month extension is used.

4.0 Contract Type

The contract is a JCT Measured Term contract. It is intended that the contract will commence on 31 January 2023 at 17.00hrs. The contract shall run for a period of 18 months with the option to further extend the contract term by a period of no more than 12 months. The contract will be subject to regular satisfaction reviews based on performance and the quality-of-service delivery.

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