

GREATER LONDON AUTHORITY

REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD34

Title: West Hampstead Cottages Refurbishment

Executive Summary:

Report LFC-0192 to the London Fire Commissioner seeks approval to accept a tender evaluation outcome and provide approval for the Assistant Director for Technical and Commercial Services to award a contract to T.H. Kenyon PLC as the preferred bidder following a tender return for the amount of £474,274.

The London Fire Commissioner Governance Direction 2018 sets out a requirement for the London Fire Commissioner to seek the prior approval of the Deputy Mayor before "[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...".

The Commissioner's Board have considered and recommended the proposal to the Commissioner, who has indicated in-principle support pending prior consent to spend from the Deputy Mayor for Fire and Resilience. The Deputy Mayor considered the proposal in principle as set out in report FRB-0056 as submitted to her Fire and Resilience Board on the 2 July 2019.

Decision:

The Deputy Mayor for Fire and Resilience consents to expenditure of £474,274 plus Value Added Tax by the London Fire Commissioner for the award of a contract to T.H. Kenyon PLC for the refurbishment of the West Hampstead cottages, as set out in report LFC-0192 to the Commissioner.

Deputy Mayor for Fire and Resilience

I confirm that I do not have any disclosable pecuniary interests in the proposed decision.

The above request has my approval.

Signature:



Date:

13/08/19

PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE DEPUTY MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1. At the 10 March 2016 Resources Committee (FEP2585) of the London Fire and Emergency Planning Authority (LFEPA), Members agreed that officers report back with a final recommendation for the future of the London Fire Brigade's West Hampstead Cottages.
- 1.2. At the 15 September 2017 Resources Committee (FEP 2776), Members agreed the recommendation that Option 1 – 'Refurbishment into eight Single Person Quarters for Authority staff' was taken forward as a project. This option had the benefits of:
 - bringing the cottages back into use,
 - being a scheme that, (subject to statutory approvals), is in the Brigade's control to deliver,
 - is considered to represent the lowest overall risk, and
 - represents a significant investment in the Brigade's own staff.
- 1.3. Consultation with station management indicated that they also support the Single Person Quarters proposal as it kept the entire site under Brigade control and ownership.
- 1.4. LFEPA report FEP 2776 also provided delegated authority to the Head of Procurement and Technical and Service Support to appoint professional consultants and building contractors for the refurbishment. Delegated authority was provided on the condition that the overall costs did not exceed £720,000 (plus or minus 10 per cent), and to progress as part of the Procurement Initiation procedure. Following the abolition of LFEPA and creation of the London Fire Commissioner as the fire authority for Greater London, report LFC-0192 to the Commissioner proposes the capital expenditure required to appoint the preferred contractor to complete the refurbishment.
- 1.5. At this stage, it should be noted that an application for listed building consent to the London Borough of Camden is still pending. In order to move the project forward, it was agreed to conduct delivery of this requirement in parallel with the tender process. A recent change to the person occupying the Heritage Officer role within the London Borough of Camden has resulted in revised discussions between the Council, Dron & Wright (the Commissioner's project managers), Nexus (the planning consultants) and Historic Building Advisory Service (heritage consultants) on the specification for refurbishing the listed cottages. Pending resolution, the recommendation is to progress the request for contract award to secure agreement for funding 'subject to listed building and planning consent' being achieved.
- 1.6. The proposal was projected to take approximately 18 months to design, seek statutory approvals, and complete the works. Since approval to progress, there have been some delays, including:
 - obtaining the Certificate of Lawfulness from the Local Planning Authority (LPA) which was issued in July 2018;
 - carrying out works to stabilize the structure;
 - investigations into the condition of the brickwork;
 - finalising tender documentation;
 - discussions with LB Camden in agreeing the scope of works for the Listed Building application (still pending); and
 - the final production of the tender evaluation report was prolonged due to the number of clarifications required from all of the tenderers.

2. Objectives and expected outcomes

- 2.1. The refurbishment plan retains the integrity of a terrace of four self-contained cottages and will facilitate the use of the cottages as SPQs (to produce eight lockable and lettable rooms, with a shared kitchen, bathroom and living room per cottage).
- 2.2. For the purposes of the Certificate of Lawfulness, the definition of 'permitted occupants' has been intentionally drafted on a wide basis. This is designed to maximise future flexibility of utilising the cottages as 'family units' should it be required. However there are considerable legal implications and constraints to the Commissioner on the concept of letting out an entire home. The Commissioner is not permitted to grant Assured Shorthold Tenancies (ASTs). Hence, the occupiers could obtain protected tenant status, with long term security of tenure. The current agreed use allows SPQs to be licensed to any of the Commissioner's staff. The General Counsel's Department has confirmed that, while the Commissioner can let premises to its own staff, as it is deemed ancillary to the function as a fire and rescue authority, this cannot be extended to staff from other emergency services or other organisations. This is due to restrictions in the Housing Acts (various) on the housing powers afforded to emergency services.
- 2.3. A small project team is supporting delivery of the refurbishment and successful marketing of the cottages. Any marketing will be conducted with regard to promoting other SPQs owned by the Commissioner. Currently the SPQs at Clapham (12 units) and Acton (four units) have an occupancy rate of 50 per cent and 75 per cent respectively. One of the influencing factors is considered to be that information on the availability of SPQs is not easily accessible or promoted. It has also been a considerable time since the SPQs at Clapham and Acton have been decorated and the condition of the interior has deteriorated over time.
- 2.4. To ensure SPQs are fully occupied and providing a good standard of accommodation to support tenants of the Commissioner, the project team are developing a plan to ensure current information on the availability of West Hampstead Cottages and other SPQs is accessible by all staff. This will include a marketing exercise to ensure tenants are in place for the completion of their refurbishment, as well as the promotion of SPQs at Clapham and Acton which are being scheduled for re-decoration. Delivery of this activity will promote the availability of accommodation to staff, maximise rental income and mitigate any risk of under occupancy on completion of the West Hampstead cottages and other SPQs.
- 2.5. The Assistant Director for Technical and Commercial Services has delegated authority to set rents under the Commissioner's Scheme of Governance. The current discounts on existing SPQs are in the range of 10 – 20 per cent below localised market rates. This varies according to room size, although rent for West Hampstead cottages will be consistent across all eight SPQs being provided. As advised in FEP 2776, discount levels and criteria are currently being reviewed to incentivise occupancy. The aim is to develop a policy on residential rent-setting which will deliver the criteria for residential rent-setting which will be reviewed every three years. This will support the frequency of actual rent review and changes. Currently, the reviews take place on an annual basis; one year based on market rents (subject to the discount), followed by two years of Retail Price Index increases.

3. Equality comments

- 3.1. The Public Sector Equality Duty – and the potential impacts of this decision on those with protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation) – has been considered by the London Fire Commissioner (and the Deputy Mayor for Fire and Resilience at the Fire and Resilience Board on 2 July).
- 3.2. The Public Sector Equality Duty applies to the London Fire Commissioner and the Deputy Mayor for Fire and Resilience when they make decisions. The duty requires them to have regard to the need to:

- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
 - b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - c) Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 3.3. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 3.4. The equality impact assessment indicates that the proposals in this report may have a disproportionately adverse effect on any persons with a particular characteristic. Due to the Grade II listed status of the properties, the internal area is small and the stairs are very steep. It is not possible to make alterations to the properties to make it more accessible to staff with mobility issues. This constraint is unlikely to impact on operational firefighter roles, however staff within non-operational roles with mobility issues are likely to be disproportionately impacted in their opportunity to access.
- 3.5. Conversely, the delivery of West Hampstead cottages as Single Persons Quarters at affordable rent supports the Mayoral Policy of economic fairness. This is a positive outcome for staff as benefits will be realised by increasing the Commissioner's portfolio of affordable accommodation to support its diverse workforce. On completion of the cottages, the capacity to develop a station-based resource to support workforce wellbeing in the form of a mindfulness area can also be taken forward at a local level.

4. Other considerations

Procurement

- 4.1. Following the appointment of Dron and Wright as project management consultants, a full tender pack was prepared and finalised in consultation with officers in February 2019. The invitation to tender was issued on the Blue Light portal on 1 March 2019 to a closed competitive tender of six companies with Dron and Wright administering the process. This procurement process was adopted to accelerate the tender process with three companies being nominated by Dron and Wright and a further three by the Commissioner's officers. On confirmation that all six companies were interested and would be submitting a return, an invitation to tender was issued.
- 4.2. Submissions from all six contractors were received on the 29 March 2019, after which consultant project managers commenced a detailed evaluation exercise and submitted a final evaluation report. The tender submissions were assessed and scores awarded on the basis of cost at 70 per cent and quality at 30 per cent.
- 4.3. The preferred contractor was identified based on their tender sum and the quality of their tender submission, their price being the most competitive and their tender documents being the most comprehensive. The scores awarded to all other tenderers were lower in accordance with their tender sum, the quality of their submission, and the degree to which the tender requirements were satisfied.
- 4.4. The tender process was below the works value threshold required to conduct an OJEU procurement process.

Sustainability

- 4.5. The project will be administered in alignment with the Commissioner's sustainability policies. Details on the scope of how this project impacts on those policies is located within the full Sustainable Development Impact Assessment (SDIA) completed for these refurbishment works.
- 4.6. A registration with Construction Line (a pre-qualification scheme for UK-based construction companies) was a requirement for all tendering companies which includes checks to ensure all companies are compliant with the Modern Slavery Act. The minimum requirements set by Construction Line are:
- UK workers receive minimum wage and robust immigration checks. Further checks have also been made to ensure that the preferred bidder pays the London Living Wage and appropriate conditions will be included in the contract in line with policy.
 - Map supply chains to identify where the highest risk and exposure to modern slavery exists; undertake site inspections; provide training to local employees and local suppliers and other initiatives to manage modern slavery risks.
- 4.7. The preferred bidder is a small/medium sized enterprise (SME).
- 4.8. The cottages in their present form are linked to West Hampstead Fire Station for all their utility needs (gas, electric and water). Under the refurbishment, each cottage will be stand alone from the fire station, having dedicated supplies which will be individually metered. This will future proof the cottages and allow for consumption and associated carbon emissions due to tenancy to be distinguished from the fire stations

Strategic drivers

- 4.9. Pages 18 – 26 of the Mayor of London's manifesto set out the Mayor's 'Homes for Londoners' commitments. These include:
- encouraging employers to invest in homes for the benefits of their workforces;
 - the Mayor's commitment to use Greater London Authority (GLA) Group land to its best potential; and
 - encouraging the use of public sector land creatively to develop future income streams.
- 4.10. The Commissioner's London Safety Plan says at page 54: *"The Brigade also knows that one of the Mayor's key priorities is to secure more affordable housing in London. London Fire Brigade's ability to contribute here is more limited. However, the Brigade will explore what can be done to help tackle the housing challenges facing London. This will include looking at the potential to facilitate joint development of our properties with third parties and other Greater London Authority bodies for affordable housing. The Brigade also knows that there are housing challenges for staff. Where possible, London Fire Brigade will look at the potential of providing accommodation for staff within its properties"*.
- 4.11. The proposals the Commissioner and Deputy Mayor directly support these policy commitments.

Workforce

- 4.12. Officers have ensured that the station manager and watches of West Hampstead Fire Station have been kept informed throughout the process. The station manager has been consulted on impacts to operational delivery and an agreed outcome on contractor requirements was built into the tender package to ensure minimal impact on operational delivery during the construction phase.

- 4.13. On completion of the refurbishment, this will allow station based staff safe access to progress their plans locally to utilise an area to the side/rear of the cottages to provide a mindfulness garden to support the wellbeing of staff.

Risk and dependencies

- 4.14. There is a risk that due to the poor condition of these properties, the scope of work will increase once the strip-out phase commences. There is considerable damage to the timbers in the form of both wet and dry rot, some of the internal walls are of concrete construction and once stripped of the wall coverings could reveal structural issues that will need to be addressed. Close monitoring of each phase of the refurbishment will be required to ensure that funding options are in place should the scope of work increase. There are monies set aside in the form of a 10 per cent contingency which can be drawn down if additional works are required.
- 4.15. The listed status of these properties and the poor condition has resulted in keen interest from the local authority's conservation officer. Good working relationships are key to the smooth running of the project to avoid delays which could result in extensions of time and therefore an extended programme. Listed building consent is still to be granted by the London Borough of Camden and the specialist planning consultant is working closely with the Heritage Officer to enable this.

5. Financial comments

- 5.1. Report LFC-0192 to the London Fire Commissioner requests approval to appoint the contractor T. H. Kenyon PLC to undertake the refurbishment of West Hampstead cottages at a cost of £474,274 (excluding VAT). The overall capital budget required to complete the refurbishment, including fees and project management costs is £720,000, which is the budget that has been allocated to this scheme as detailed in the 2019/20 Capital Strategy (LFC-0134). If the project was financed from external borrowing, the approximate annual debt charges would be £89,000, based on a 10-year life – this includes annual debt repayment at £72,000 and annual interest charge of £17,000, based on an interest rate of 2.4 per cent.
- 5.2. The refurbishment of the cottages is expected to be completed by January 2020, enabling the units to be let out to the Commissioner's staff by February 2020 at affordable rent levels. This will result in estimated additional income of £67,000 per annum, and also support the Mayoral Policy of affordable housing in London and support staff by providing discounted accommodation. The actual rent charged will be dependant on the outcome of work to develop a residential rent setting policy. It should also be noted that the Commissioner's estate management consultants receive an annual fixed fee of £6,000 for managing the SPQs and an annual charge for carrying out rental reviews based on one per cent of the total rental income.
- 5.3. Council tax and utilities will be payable by the tenants, and any other additional costs such as maintenance will be contained within existing budgets. There are no direct financial implications for the GLA.

6. Legal comments

- 6.1. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office. Under section 327D of the GLA Act 1999, as amended by the Policing and Crime Act 2017, the Mayor may issue to the Commissioner specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.

- 6.2. By direction dated 1 April 2018, the Mayor set out those matters, for which the Commissioner would require the prior approval of either the Mayor or the Deputy Mayor for Fire and Resilience (the "Deputy Mayor").
- 6.3. Paragraph (b) of Part 2 of the said direction requires the Commissioner to seek the prior approval of the Deputy Mayor before "[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...".
- 6.4. The statutory basis for the actions proposed in this report is provided by sections 7 and 5A of the Fire and Rescue Services Act 2004 ("FRSA 2004"). Section 7 (2)(a) FRSA 2004 the Commissioner has the power to secure the provision of personnel, services and equipment necessary to efficiently meet all normal requirements for firefighting and section 5A allows the Commissioner to procure personnel, services and equipment they consider appropriate for purposes incidental or indirectly incidental to their functional purposes.
- 6.5. The Commissioner's General Counsel also notes that the proposed service has been procured in compliance with the Public Contracts Regulations 2015 and the Commissioner's Scheme of Governance.
- 6.6. In taking the decisions requested, the Deputy Mayor must have due regard to the Public Sector Equality Duty – namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010 and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it (section 149 of the Equality Act 2010). To this end, the Deputy Mayor should have particular regard to section 3 (above) of this report.

Appendices and supporting papers:

Appendix A – LFC-0192 – *'West Hampstead Cottages'*

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? YES

If YES, for what reason:

The London Fire Commissioner's commercial interests would be damaged should the procurement considerations be published prior to the contract award and subsequent cooling off periods.

Until what date: (a date is required if deferring)

1 October 2019

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer

Andrew Nathan has drafted this report with input from the London Fire Commissioner and in accordance with GLA procedures and confirms the following:

✓

Assistant Director/Head of Service

Tom Middleton has reviewed the documentation and is satisfied for it to be referred to the Deputy Mayor for Fire and Resilience for approval.

✓

Advice

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 12 August 2019.

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

Date

13.08.19

M.T.
Tom MIDDLETON on BEHALF OF MARTIN CLARKE