



**Executive
11 April 2011**

**Report from the Director of
Regeneration and Major Projects**

Wards affected:
ALL

**Authority to Delegate the Award of a Construction Contract
in relation to Expansion Works at Park Lane Primary
School**

APPENDICES 2 AND 3 ARE NOT FOR PUBLICATION

1.0 Summary

- 1.1 The Executive has noted in 11 August and 15 November 2010 reports that demand for primary school places is forecast to exceed supply in the borough and that by 2015-16, 1680 new primary places will be required.
- 1.2 In its strategy to address the shortage, the Executive had agreed, on 11 August 2010, that the Council's allocation of Basic Need Safety Valve monies, supported by the School's Main Capital programme allocations to primary schools for expansion, be utilised.
- 1.3 In the November 2010 Executive report, Park Lane Primary School is identified as a recipient of a share of the Basic Need Safety Valve (BNSV) monies to address expansion and remodelling proposals. The subject report notes that project costs have increased from an estimated £2.2m to an estimated £2.6m, due to necessary re-design and demolition costs. Project costs are to be met within both BNSV monies and the Schools main Capital Programme. In order to meet tight timelines of BNSV spend, this report requests to delegate authority to the Director of Regeneration and Major Projects to appoint and award a contract to a contractor from the IESE (Improvement and Efficiency South East) Framework Agreement to undertake required new build and remodelling works at Park Lane Primary School.
- 1.4 The award of contract to 'Contractor A' via delegated authority to the Director of Regeneration and Major Projects is estimated at £2.35m which is the budget sum set aside; such sum to be subject to an adjustment from the Main Capital Programme, as he considers necessary and as further detailed in

paragraph 3.7 and with the agreement of the Director of Finance and Corporate Services.

2.0 Recommendations

The Executive is recommended:

- 2.1 To note the increase in scheme costs by £400,000 from £2.2m to 2.6m. This will be funded from the Schools Main Capital Programme at £1m and £1.6m is to be resourced from BNSV monies.
- 2.2 To delegate authority to the Director of Regeneration and Major Projects to appoint and award a contract to the preferred 'Contractor A', who is named in Appendix 3 and is a contractor from the IESE Framework Agreement in relation to the construction works at Park Lane Primary School, to not exceed £2.35m, subject to an adjustment as considered necessary to the Main Capital Programme, in accordance with the needs of other schools expansion projects on this resource and with the agreement of the Director of Finance and Corporate Services.

3.0 Detail

Proposed scheme

- 3.1 The Executive noted in the 11 August 2010 Executive report the shortage of primary school places in the borough. Brent Council has proposed the expansion of Park Lane Primary School to increase the number of Year R to Y6 places from 1 Form of Entry (FE) to 2FE and to also improve the quality of accommodation through additional specialist rooms, including the provision of a food & science classroom, a library resource, staff Planning, Preparation and Assessment room and a new hall. In addition works will also include improving the school's accessibility; the installation of a lift and the provision of improved KS1 inter-related internal and external play areas.
- 3.2 Park Lane Primary School is a co-educational, non-denominational Community school for age 3 -11 pupils. It is a popular one form of entry school i.e. 30 places per year group and is currently operating Reception to Year 3 as 2FE on a (now) permanent basis, following Planning Permission to physically expand. The expansion of Park Lane Primary School by 1FE to 2FE is an essential step that enables the Council to meet its statutory duty to provide school places and to enable the additional year classes to progress through the school.

Contribution of the scheme in delivering school places

- 3.3 The report to Executive on 11 August 2010 stated that the Council delivered 135 Reception places by September 2010 to alleviate the significant shortfall in Reception classes. As noted in paragraph 3.2, Park Lane Primary School contributed to that permanent class intake by accommodating 30 Reception places.
- 3.4 On the 26 July 2010, Executive approved the statutory proposal for the alteration of Park Lane Primary School so that it expands from 210 places to 420 places with effect from January 2011, conditional upon the grant of

planning permission under Part 3 of the Town and Country Planning Act 1990, by January 2011.

- 3.5 A planning application was submitted to the Planning Department in July 2010, following Pre application advice, with a view to obtaining approval by September 2010. However, the feedback from Planners was that the design proposal could not be supported, following which further consultation with Planning Officers took place, resulting in a re-design of the new-build external elevations, slight shifting of the building and, after in-house deliberations, a decision to endorse the option that incorporates the demolition of the existing school nursery. A re-submission based on this option was then made in December 2010. Planning Approval was obtained on 10 December 2010, for the expansion, remodelling and demolition works at the school, with one of the conditions relating to the school's requirement to update and maintain a robust School Travel Plan. Full consultation on design detail continues with the school and relevant stakeholders.

Proposed Funding

- 3.6 Funding resources of £2.2m, primarily from BNSV allocation for the Park Lane expansion scheme was approved by The Executive meeting on 26 July 2010. Subsequently, the 11 August Executive agreed that £1.6m, along with an allocation of £600k from the Schools Main Capital Programme, would finance the Park Lane School scheme. However, building cost estimates have since increased, due in part to the decision to demolish the existing nursery and in part as a result of the marginally larger footprint of the new build which is to accommodate classrooms, nursery, hall, library, plant-room and lift.
- 3.7 Cost Consultants, Frankham Consultancy Group has estimated total scheme costs' increase from £2.2m to £2.6m, of which £2.35m is the estimated construction cost. However, as noted in paragraph 3.27, the Guaranteed Maximum Price (GMP) is higher than the original construction cost estimate. As such it is proposed that the Director of Regeneration and Major Projects may adjust the Main Capital Programme as necessary and in accordance with other school projects' calls on this resource and in agreement with the Director of Finance and Corporate Services. The capital budget approved by Full Council on 28th February 2011 includes allocations from both BNSV monies of £1.6m and from the Schools Main Capital programme of £1.0m.
- 3.8 As reported previously, BNSV funding allocation is dependent on pupil numbers in the January 2012 census meeting those forecast for September 2011 and the Department for Education has reserved the right to claw back funding where these targets have not been met. As such, the BNSV allocation of £1.6m must be fully spent by August 2011 in order to achieve these targets and ensure that appropriate permanent school places can be offered for the September intake.
- 3.9 In order for the school to effectively offer required additional school places from September 2011 and to enable spend of allocated BNSV monies by end of August 2011, a contractor must be appointed and take possession of the site as soon as possible.

Appointment of Consultants

- 3.10 Appointment of the Lead Consultant was reported to the 26 July 2010 Executive. In short, Frankhams are appointed from the Council's Property Services Framework to design, project-manage and provide the role of CDM Co-ordinator. Therefore Frankham's primary multi-disciplinary role consists of Architect, Structural Engineer, Building Surveying (mechanical / electrical engineer), Contract Administrator, Technical Adviser and BREEAM Advisor. Appointing one consultant to perform these multi function roles has meant that the Council has secured discounts from the rates set out in the framework and should ensure a seamless service. However, in order to better scrutinise and manage project costs, it is considered prudent to appoint an 'external' QS, to which purpose terms have been agreed with Keegans Group, who are also on Brent's Property Services Framework, to take over the QS role from this stage of the procurement process; Keegans are now working closely with Frankhams Project Manager, although each other's roles are clearly defined. The Design Team responsible for reporting to Brent Council and the school consists, therefore, of Frankhams, Keegans and the preferred Contractor, once formally appointed.

Procurement of the Works Contract

- 3.11 Approval has been obtained from both the Director of Finance and Corporate Services and from the Director of Legal and Procurement to participate in the IESE Buildings Workstream Framework to procure a contractor to undertake the expansion new-build and remodelling works at Park Lane Primary School. The contractor will be appointed on a design and build contract to build the scheme outlined in design by Frankhams. The intention is that utilising the IESE Framework and bringing a contractor on board at an early stage will allow the Council to build the required part new-build, part remodelling works within the required BNSV timeframe and enable the principles of Best Value to be adhered to. The framework is structured to provide for traditional procurement using a two-stage contract (ie pre-construction services and then the main build contract). The added value of this IESE procurement route is that it allows for open book accounting with the main and sub-contractors, enabling the Council and appointed consultants to audit the cost management process during the pre-construction and construction phases. However, it is acknowledged that the timeline is extremely tight; discussions have been held with the Design Team and with the IESE Framework Manager ahead of the Contractor's appointment, to engage on the critical timeline and to forge methods that assist in enabling a programme that both meets the targets of completion, spend of a minimum £1.6m, as noted in paragraph 3.8 and to deliver on cost certainty during pre-construction and post construction phases.
- 3.12 The IESE Outline Report issued to all legible contractors noted the key factors for the Park Lane project, highlighting the timeline and required completion, current forecast and form of contract.
- 3.13 Under the rules of IESE Framework, the IESE team at Hampshire County Council ran an Expression of Interest process to identify relevant contractors on behalf of Brent Council in relation to the required construction works at Park Lane Primary School. This process resulted in two, out of a possible ten, IESE contractors lodging an interest in the Park Lane project. Eight firms of contractors had opted instead to put their resources in 2nd Generation Renewal submission. Contractor A and Contractor B expressed their interest

against outline project information, relevant experience, capacity, proposed management team and their geographical presence.

- 3.14 Following an evaluation of Expressions of Interest, the appointment of a preferred contractor using the IESE Procurement Framework is based on structuring Mini-Competition Tender Documents around specific stakeholder and project requirements. It enables the contractor to fully understand these requirements and prepare an initial Draft Execution Plan (DEP) identifying risk and issues with the project. The evaluation criteria scores the DEP in addition to their cost and ability submissions. The transparency of this approach allows the stakeholders and Design Team to fully assess the contractors' competence and suitability to deliver the project.
- 3.15 The evaluation carried out by Frankham, on behalf of Brent Council with guidance from IESE is based on the contractors' overall performance (KPI's on finance, quality, programme and satisfaction - information is managed and supplied by IESE managers). That information is provided direct by IESE and sourced from previous Framework projects, capacity and relevance to undertake the project.
- 3.16 Following the evaluation of Expression of Interest, carried out by IESE on 7th January 2011, the two contractors, both scored the same; as shown in Appendix 1.
- Contractor A - (scored 67%)
 - Contractor B - (scored 67%)

Tender Process

- 3.17 Following the evaluation of Expression of Interest, Invitations To Tender were issued on 4th February 2011 to the two contractors to enable the processing of the mini-competition. The mini-competition was conducted between both contractors, based on a pre-construction fee, a design fee and programme. This period is to enable the selection of a contractor to be appointed under a call-off contract for pre-construction work to include design work - based on Frankham's outline design for the design and build scheme, to inform on technical solutions best suited to the scheme requirement and the development of a cost plan. Both Contractors are obliged, under the IESE Framework Agreement to charge a pre-construction fee for their input on the pre-construction stage work. Contractor A's fee is £138,712; Contractor B's fee is £255,328. It is anticipated that this element of work will be incorporated and therefore mitigated during the tender process and not, therefore, an addition to the main building contract sum.
- 3.18 The tender submissions were adjudicated using the IESE scoring matrix on 18th February 2011, following a subsequent tender clarification interview with both contractors on the 9th February 2011. The scores, geared towards quality and pricing submissions were marked against:
- logistics,
 - pre construction management and construction phase programmes
 - supporting information to cost submission
 - cost plan

- 3.19 The scoring assessment is shown in Appendix 2 (not for publication).
- 3.20 Contractor A scored 81.1% as their tender was more innovative and a more pro-active response to the tender competition; its financial submission is also more favourable. This Contractor suggests a traditional method of construction, whereas Contractor B, who scored 72.9%, has been less pro-active and suggests a laminated timber solution as its preferred method of construction. Brent Council has previously preferred not to use this form of construction on another new-build project.
- 3.21 The requirement to deliver the classrooms by end of August 2011, which both Contractors have been advised of, results in an extremely tight programme, but nevertheless both have stated that it is achievable. However, other elemental areas of build works, including the hall and ancillary offices will not be completed by that timeline. Contractor A has provided a programme that shows delivery of classrooms by end of August 2011 and building work programmed through to February 2012. Contractor B's construction programme likewise indicates a completion in February 2012, with delivery of classrooms by August 2011.
- 3.22 To address and to ease both ongoing temporary decanting during the building works and programme fluidity, the use of temporary accommodation cannot be ruled out. Further discussions will take place with the appointed Contractor before a firm decision is made for its use, but it would be prudent to make provision. Related temporary accommodation costs is estimated at £30,000 and would be a cost outside of the main building contract.
- 3.23 In order to ensure that Brent has a firm commitment from one or either Contractor, with regard to delivery of classrooms, programme and spend, both Contractors had been asked to consider the agreement of a Guaranteed Maximum Price (GMP) by 21st March 2011, to satisfy Brent Council's requirement to seek an earlier guarantee of being able to comply with the budget, programme and cash flow requirements. Once the GMP is known and, on the expectation that Brent will be able to progress with one of the Contractors, the preferred Contractor will be requested to both define the contract sum and develop the design by 2nd May 2011.
- 3.24 The appointment of a single contractor to produce a fixed price and develop the design by 2nd May 2011 has a relatively high risk in that there is no guarantee that Brent Council will secure a fixed price within the budget, or be able to deliver all required classrooms by the end of August 2011. However, there is little in the way of option to procure the delivery of the classrooms by any other means. The agreed preference is to obtain a guaranteed price now (as at 21 March 2011) so that it will be known whether the scheme is affordable, rather than wait until May, which by then will place additional pressure on the programme and spend of PCP monies. The requirement to spend £1.6m by the end of August 2011 is also not guaranteed, although Contractor A and Contractor B have indicated that both targets are achievable.
- 3.25 Contractor B had not submitted a GMP on 21 March 2011 and following enquiries, it was made known that they were intending to do so. As such Contractor A is the only GMP bid that has been received and which may,

therefore be considered. There is nothing against which to evaluate Contractor A's GMP as it is the only bid, as advised by Frankhams .

- 3.26 The outcome of Contractor A's GMP tender is shown in Appendix 3 (not for publication).
- 3.27 Contractor A's GMP as shown in Appendix 3 is over the original estimate and budget provision of £2.35m. However, Brent Officers and the Design Team are undertaking Value Engineering on the GMP allowing financial costs to be contained within budget, which, via delegated authority of the Director of Regeneration and Major Projects, may recourse to some adjustment to the Main Capital Programme.
- 3.28 On this basis, Brent Officers are willing, subject to Executive approval, to award the pre-construction contract, with a view to awarding the Main works contract to preferred Contractor A, following the Design Team working with Contractor A to secure a price that fits within budget, notwithstanding recourse to the Main Capital Programme, as noted in paragraph 3.27.
- 3.29 The timeline for the Contractors' submission of the GMP, followed by the Contractor's commitment to a contract sum falls between Executive meetings (11 April and 23 May 2011). As such and, so as to enable the preferred Contractor A to start on site with effect from 3 May 2011, this report proposes that there be delegation to the Director of Regeneration and Major Projects to award a Main Works contract to deliver the Park Lane Primary School scheme.
- 3.30 The form of build contract will be JCT Design & Build With Contractor's Design 2005. There will be no novation of Frankhams to the Design & Build Contractor. The indicative works contract sum, including an appropriate contingency is not to exceed £2.35m. The level of contingency is to be established in consideration of design risk passing to the contractor, subject to ground conditions risks. Remaining allocated funds will meet development costs and professional fees, within the total allocation of £2.6m, subject to value engineering and adjustment to the Main Capital Programme, as considered necessary by the Director of Regeneration and Major Projects.

4.0 Financial Implications

- 4.1 Expenditure for both design fees and building costs will be met from a combination of Basic Needs Safety Valve (BNSV) funding totalling £1.6m and £1.0m from the Main Capital Programme resources. The BNSV funding allocation is dependent on pupil numbers in the January 2012 census meeting those forecast for September 2011 and the Department for Education has reserved the right to claw back funding where these targets have not been met. As such, the allocation of £1.6m must be expended in full by end of August 2011 in order to achieve these targets. If the contract is let and grant monies are not expended within the timeline the Council will bear the risk on any balance of required funding for which there is no budgetary provision.
- 4.2 The cost estimates included within the report are subject to further work on design and evaluation of the scheme. At the time of writing the report, only one Contractor has submitted a Guaranteed Maximum Price by the due date

of 21 March 2011 and, following an evaluation of the Bidder, it is proposed that the preferred contractor to be awarded the Main Works contract, preceded by the pre-construction contract is Contractor A. By 2nd May 2011, the contract sum will also be known; it is acknowledged that the GMP is outside the original estimate and budget provision of £2.35m. However, it is anticipated that applying Value Engineering with, if necessary, an adjustment to the Main Capital Programme, an affordable contract sum will be reached and agreed via delegated authority of the Director of Regeneration and Major Projects and with the agreement of the Director of Finance and Corporate Services.

- 4.3 The Council's Contract Standing Orders state that works contracts exceeding £1,000,000 (High Value Contracts) shall be referred to the Executive for approval. Accordingly, as the indicative contract sum exceeds £1,000,000 and is no higher than £2.35m, the Executive is hereby requested to approve the works contract to Contractor A, via delegated authority to the Director of Regeneration and Major Projects, for reasons explained in paragraph 3.29.
- 4.4 The report notes that utilising the IESE Framework Agreement that facilitates bringing on board a contractor at an early stage of the procurement process enables the principles of Best Value to be adhered to, as outlined in paragraph 3.11 and how tasks enabling cost certainty during pre-construction and post-construction phases may be achieved.

5.0 Legal Implications

- 5.1 Brent Council has a statutory duty to provide school places where needed; the proposal of the part new-build and part remodelling works to enable expansion of Park Lane Primary School will facilitate the Council in its duty.
- 5.2 Normally a works contract that is above the EU works threshold of £3,927,260 requires the use of an EU-compliant tender process. However there is no need to comply with this where a call-off is made from an EU-complaint framework. The use of framework agreements is permitted within Council Standing Order 86(d) and, provided that there is compliance with EU law and internal rules of the particular framework, individual call offs do not require the following of an individual tender process. However, it is necessary for the Chief Officer, Director of Legal and Procurement and Director of Finance and Corporate Resources to confirm that participation is legally permissible as per Standing Order 86 (d) (ii), each time a call off from another contracting authority's framework is proposed.
- 5.3 Confirmation was obtained from the Director of Legal and Procurement on 8th September 2010 that participation in the IESE Framework is permissible. Authority and approval was obtained from the Director of Finance and Corporate Resources on the 28th September 2010 to use the IESE Framework.
- 5.4 In order to minimise delay in the delivery of this project, this report seeks to delegate to the Director of Regeneration & Major Projects the award of the final stage construction contract, due to the timing of the Executive meetings and as explained in paragraph 3.29, which is otherwise as required under the Council's Contract Standing Orders, where estimated construction works exceed £1,000,000 (High Value Contracts). It is not

unusual for award decisions to be delegated, however it is considered justified in these circumstances. The indicative main works contract sum is not expected to exceed £2.35m, but it is acknowledged that the Director of Regeneration and Major Projects may use his discretion to make a necessary adjustment to the Main Capital Programme to ensure that the contract sum fits within a revised and agreed provision.

6.0 Diversity Implications

- 6.1 Park Lane Primary School is situated in a relatively wide socio-mixed area and, likewise, caters for pupils from a diverse socio-economic mix. The expansion will improve choice and diversity for parents of Brent.
- 6.2 Expanding the school will enable the Council to fulfill its statutory duty to provide school places and additional new places and also to allow the existing Year classes to move up and progress through the school.
- 6.3 The design strategy and the building form will support the education delivery, facilities and amenities for all, including the children and families who need these services most in the expansion programme as outlined in this report and so to enhance their inclusion.
- 6.4 An Impact Needs/Requirement Assessment Completion Form is attached at Appendix 4.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 There are no implications for the immediate purpose of this report.

Background Papers

- Park Lane Primary School files
- Frankham - Tender Report - 18 February 2011
- 11 August 2010 Executive Report - Primary School Expansion

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