



**Delegated Decision by the Leader**  
27 September 2018

**Report from the Strategic Director  
of Resources**

**Recommendation to waive Contract Standing Orders in relation to the procurement process for a Contract to undertake building works of a new classroom block at Malorees Junior School, Christchurch Avenue, Kilburn, NW6.**

<b>Wards Affected:</b>	Brondesbury Park
<b>Key or Non-Key Decision:</b>	Non-Key Decision
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	Full council report: Changes to the Constitution, 9 July 2018; Appendix 2.
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Christine Moore, Capital Projects Manager, Tel: 0208 937 3118  Cheryl Andani, Capital Programme Manager Property and Assets, Tel: 0208 937 3227  Nick Ljustina, Operational Director Property and Assets, Tel: 0208 937 5025

## 1.0 Purpose of the Report

- 1.1 Full Council, on 9 July 2018, approved a number of changes to the Constitution, which included a scheme allowing the exercise of certain executive powers by individual Cabinet Members, in consultation with the Leader. Amongst the delegations approved were decisions relating to waiver of Contract Standing Orders for Medium to High Value contracts.
- 1.2 The relevant Cabinet Member, for the purposes of this report, is the Deputy Leader. However, in her absence and, having notified the Monitoring Officer, in accordance with paragraph 7.7 (ii) of Part 3 of the Constitution, the decision has been referred to the Leader.

- 1.3 Accordingly, this report seeks approval from the Leader to waive Contract Standing Orders requirements in relation to the usual procurement process and to permit officers to approach up to six, pre-selected contractors to bid for a Medium Value works contract to construct a new classroom block at Malorees Junior School, Christchurch Avenue, Kilburn [Brondesbury Park ward].

## **2.0 Recommendation(s)**

### **That the Leader:**

- 2.1 Approves an exemption pursuant to Contract Standing Order 84(a) of the requirement to tender a construction contract for a new classroom block at Malorees Junior for the good operational and financial reasons detailed in paragraphs 3.5 and 3.6 thereby enabling Officers to instead approach up to six contractors to participate in a competitive bid exercise.
- 2.2 Notes that subject to complying with the revised procurement process detailed in 2.1 above, the contract award decision will be taken by the Strategic Director, Resources, in accordance with the Council's scheme of officer delegation.

## **3.0 Detail**

- 3.1 In 2014/15, both Malorees Infant School and Junior School agreed to expand in pupil numbers by one form of entry and therefore consultation took place on that basis. Subsequently, a decision was taken by Members, not to progress with expansion proposals at this school.
- 3.2 However, school places had been allocated to parents at the Infants School, prior to the decision by Members. Further, in anticipation of the expansion, the Junior School, at its own expense, had dedicated substantial areas within the teaching blocks to specialist class and support areas, which are not transferable to a 30 pupil (bulge) class. Numerous discussions took place between senior Children and Young People officers and the school, in 2016/17, to consider options around accommodating the bulge class within an existing area of the Junior School. A feasibility study concluded that costs to reconvert these specialist teaching spaces to a 30 pupil classroom space is deemed not economically viable and would mean that the school could no longer provide the essential specialist teaching areas so highly required. Agreement was therefore reached during at the end of summer 2017 that an additional, permanent classroom would be built. A temporary accommodation unit was provided via the School's Temporary Expansion Programme. The Council's initial suggestion was that the bulge class would move up to the Junior School upon leaving the Infant School, in July 2017, without significant disruption and with relatively minor reconfiguration of the Junior School accommodation. However, it became apparent, following discussions with the Junior School and the findings of the feasibility study, at the end of the academic year 2016/17 that this was not feasible, nor desired. At the end of summer 2017, Children and Young People officers advised that additional accommodation would be required in the Junior School, for the bulge class, from 2018 onwards. The additional children have completed Infants School and are now in Year 3. Academically, the children are in the Junior School

but, physically, located in the temporary building on the Infants School site. The Junior School does not have sufficient capacity to provide the required educational accommodation, so an additional, permanent classroom within a single-story block is to be built, along with associated works. The design process and site surveys required to inform the project costs have evolved since summer 2017 during which time the design team has worked with the school to achieve sign-off from the Governing Body.

- 3.3 Following the appointment of a design team, incorporating Architect, Project Management, Quantity Surveyor, Civils, CDM H&S, Mechanical & Engineering, Landscape services and the designated Capital Projects Officer, surveys were conducted, design for the classroom block were undertaken and a cost plan was derived which informed the estimated project cost. Based on the project cost projections, the Capital Investment Panel, on 18 December 2017, agreed a project budget of £450,000 from the Council's Basic Need Funding allocation to finance the classroom build and development costs at Malorees Junior School.
- 3.4 The design team, commissioned to varying RIBA Works Stages as appropriate, continue to work with the Junior School, who are very supportive of the proposed project. Planning Approval for the new-build classroom was achieved on 26 July 2018. Subject to the procurement route followed, the programme is currently on schedule, with a start on site due to commence early December 2018 and completing early April 2019. The temporary classroom building will be removed during the Easter break 2019, when the bulge class will move into the new-build permanent classroom on the Junior School site, thereby causing minimum disruption to the school.
- 3.5 Discussions with the Procurement Team have concluded that the most cost and time-efficient procurement route, for this Medium Value works contract, would be to appoint a contractor from up to six pre-selected contractors. The design team is working towards RIBA cost plan Stage 4 and a construction cost estimate of approximately £350,000, which includes associated works (link-way, canopy and W.C refurbishment) alongside the new-build classroom.
- 3.6 By direct approach to pre-selected contractors, officers will have the opportunity to invite to tender those who are local to Brent, are known to have successfully delivered similar projects in a live environment and thus aware of the sensitivities required for working in a school, during school term. An alternative procurement route would be the restricted procedure, involving a more lengthy two stage process, with numerous contractors expressing interest, but possibly without the required experience of working in a live school setting and for which much valuable time would be spent in filtering appropriate contractors. This procurement route would most likely have an impact on programme, where the required delivery for completion is early April, with fit-out by the school taking place over the Easter break 2019. Officers are of the view that this size works contract is too low for a restricted procurement process and that the more efficient route would be the requested direct approach of pre-selected contractors route.
- 3.7 The procurement process for which approval is now being sought will require a waiver of the Contract Standing Orders as it will involve approaching pre-selected contractors, so that appropriate bidders only, are invited to submit a bid. If approved, officers will, exercise an appropriate quality assessment

addressing themes such as project personnel resources, relevant school site experience, added value and programme details. The qualitative assessment will be weighed against the price tendered and, following interview, the preferred contractor would be selected. Approval to award a construction contract would be duly sought, from the Strategic Director, Resources. The contractor would then be in contract with Brent Council to deliver the new-build classroom to cost and programme.

- 3.8 Subject to appropriate approvals being in place, the proposed timelines for procurement of the six pre-selected contractors is outlined below, in Table One:

**Table One:**

<b>Activity</b>	<b>Date</b>
Issue Invitation To Tender	01 October 2018
Site Visits	TBC
Deadline for submitting clarifications	15 October 2018
Tender submission deadline	22 October 2018 @ 12 Noon
Evaluate Tender submissions	22 October – 29 October 2018
Notification of decision to award	31 October 2018
Contractor mobilisation	05 November – 30 November 2018
Contract commencement date	03 December 2018
Contract completion date	05 April 2019

- 3.9 The evaluation process will include an assessment of the bids where the highest scoring bidder for the most economically advantageous for the Council will be recommended for the award of contract. The most economically advantageous bid calculation will be based on 40% of the points being awarded for technical/quality and 60% of the points being awarded for Commercial Assessment (Price). Technical assessment will include responses to lead-in times and key milestones, while Quality assessment will include support of local businesses through the bidders' supply chain, reducing site energy consumption. An outline of the categories of Technical and Quality headings are provided, below, in paragraph 3.10, Table Two.
- 3.10 Officers intend to award a contract to a suitable contractor by operating an evaluation criteria as outlined in Table Two, below:

**Table Two:**

<b>Technical / Quality</b>	<b>Area weighting</b>	<b>Overall weighting</b>
Q1 Project Programme	20%	<b>40%</b>
Q2 Project Resources & Delivery	16%	
Q3 Working in the live school environment	23%	
Q4 Project Communication Plan	18%	
Q5 Previous Experience/Reference	13%	
Q6 Social Value	10%	
Total for Quality/Technical	100%	

Technical / Quality	Area weighting	Overall weighting
Commercial - Cost	Area weighting	Overall weighting
Commercial (Price)	100%	60%
<b>Total</b>		<b>100%</b>

3.11 The progress of the new-classroom build is to be regularly reported, as part of the Schools Capital Programme Board, which includes the relevant Operational Directors from Children and Young People and Resources, a Senior Finance officer and the Capital Programme Manager. The project status report, produced by the relevant officer within the Capital Programme Team, will monitor risks, issues expenditure and raise governance matters as appropriate. The design team will continue to manage the project; officers will continue to lead on liaisons with the school and ensure communication is maintained.

#### **4.0 Financial Implications**

4.1 It is noted that the project budget of £450,000, identified in paragraph 3.3, is to be financed from the Council's Basic Needs Allocation Funding, which lies within the Schools Capital Programme budget.

#### **5.0 Legal Implications**

5.1 The estimated value of this contract is £350,000, which falls below the EU threshold for works contracts and therefore any procurement route or award of contract is not subject to the full requirements of the Public Contracts Regulations 2015 (the "EU Regulations"). Further, the estimated value of the contract is such that it is not considered to be of cross border interest.

5.2 For the purposes of the Council's Standing Orders and Financial Regulations, the estimated value of this contract is such that it is classed as a Medium Value Contract.

5.3 Contract Standing Order 96 provides for contracts below the EU threshold, tenders should be invited in accordance with Contract Standing Orders using a single or two stage tender process. Contract Standing Order 84(a) however provides that subject to any requirements in the European Procurement legislation for below threshold contracts, an individual Cabinet member may agree an exemption from the requirement to procure where there are "good operational and/or financial reasons" for doing so. The individual Cabinet Member should therefore satisfy themselves that there are "good operational and/or financial reasons" for waiving Contract Standing Orders and is referred to Officers comments regarding this in paragraphs 3.5 and 3.6 of Section 3 of this report. Further, for the reasons detailed above, it is not considered that waiving Contract Standing Orders would constitute a breach of domestic and EU legislation.

5.4 Following the evaluation of the bids submitted by the pre-selected contractors the Strategic Director, Resources has delegated authority to award the contract.

## 6.0 Equality Implications

- 6.1 The proposed new classroom block will address the current Junior School's accommodation capacity shortfall and therefore support the Council's statutory duty to provide a school place for all pupils in the borough who needs one.
- 6.2 The proposed new classroom block meets the 'Brent Borough Plan – Better Place and Better Lives' in that it will provide a long-lasting building for the school to use for additional educational purposes. It will also improve the school facilities to enhance learning and development environment to enable Brent's young people to have a better start in education.

## 7.0 Consultation with Ward Members and Stakeholders

- 7.1 Consultation on the project proposal with all relevant stakeholders has taken place through the Planning Approval process. Further consultation on progress of the detailed design with parents and the school community is scheduled to take place on 25<sup>th</sup> September 2018
- 7.2 The Lead Member for Schools, Employment and Skills has been consulted on the requested waiver of the procurement process to enable a direct approach to pre-selected contractors and support the recommendation detailed in this report.

## 8.0 Human Resources/Property Implications (if appropriate)

- 8.1 There are no Human Resources/Property Implications for the purpose of this report.

## 9.0 Public Services (Social Value) Act 2012

- 9.1 The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement and will be inviting various local Brent contractors to bid. This duty does not strictly apply to the proposed contract as it is a works rather than a service contract. Nevertheless, Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

**Report sign off:**

**ALTHEA LODERICK ..... (signed)**  
**Strategic Director, Resources**