

	Officer Key Decision
	Report to the Strategic Director of Regeneration and Environment
AUTHORITY TO AWARD THE DESIGN AND BUILD CONTRACT FOR THE MORLAND GARDENS DEVELOPMENT	

Wards Affected:	Stonebridge
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – Appendix 1 is exempt as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: “Information relating to the financial or business affairs of any particular person (including the authority holding that information)”
No. of Appendices:	Appendix 1 – exempt Appendix 2 – evaluation grid
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Name: Neil Martin Job Title: Head of Capital Programmes (Schools) Email: neil.martin@brent.gov.uk

1.0 Purpose of the Report

1.1 This report concerns the redevelopment works at Morland Gardens, Stonebridge NW10 8DY to deliver a new education centre, new council homes, affordable workspace, a public facing café, and public realm improvements. This report requests authority to award the design and build contract as required by Contract Standing Order 88. This report summarises the process undertaken in tendering a contract and, following the completion of the evaluation of the tenders, recommends to whom the contract should be awarded.

2.0 Recommendation(s)

That the Strategic Director of Regeneration and Environment in consultation with the Cabinet Members for Regeneration and Planning and Jobs, Economy and Citizen Experience:

- 2.1 Approves the award of two-stage design and build contract for the development works at Morland Gardens to Hill Partnerships Ltd for a total sum of £37,933,491.

3.0 Detail

- 3.1 On 14 January 2020, Cabinet approved a number of recommendations relating to the Morland Gardens redevelopment. Cabinet supported the proposal to invest up to £43m to deliver a state of the art adult education centre, 65 new affordable homes, 675 sq. metres affordable workspace for start-up businesses from the local community, and a public facing cafe.
- 3.2 Officers initially attempted to procure a contractor to deliver the scheme in May 2021 but as detailed in the Key Officer Decision in August 2021, no bids were received in response to the invitation to tender via a one-stage mini-competition under the Notting Hill Genesis (NHG) Contractor Framework. The Director of Legal, HR, Investigation & Audit's confirmation that it is legally permissible for the Council's participation in the Framework was obtained on 11th June 2020 prior to the mini competition.
- 3.3 In August 2021, the Strategic Director, Regeneration and Environment in consultation with the Cabinet Members for Regeneration, Property and Planning and Education, Employment and Skills, approved the re-tender and pre-tender considerations for this project using a two-stage design and build contract and procured via the NHG framework. This route was proposed based on the feedback received from suppliers on this framework in order to provide the Council with the best chance to receive competitive tenders for this scheme.

The Tender Process

- 3.4 The contract for the redevelopment works at Morland Gardens (the "Contract") will be let using a two-stage Design and Build Contract. The first stage is the 2016 JCT Pre-construction services Agreement (PCSA) followed by the construction under the JCT Design and Build contract. For the first stage, the contractor will work with the Council to upgrade the scheme design, develop the existing design to RIBA Stage 4, update and finalise the fixed price contract sum, and commence pre construction demolition. Subject to satisfactory completion of the first stage and the council having all the necessary statutory approvals in place, the second stage will be triggered by the Council by entering into the main construction contract with the contractor.

- 3.5 In accordance with the Framework's rules, all contractors on the Framework Lot were invited to express interest in the opportunity. Advertisements were placed on the London Tenders Portal on 6 September 2021. Contractors were provided with the technical information and details of the tender approach and were invited to bid.
- 3.6 The tendering instructions stated that the Contract would be awarded on the basis of the most economically advantageous offer to the Council and that in evaluating tenders, the Council would have regard to the following:
- Commercial / Price: 50%
 - Quality: 33%
 - Social Value: 10%
 - Cost Control: 7%

Evaluation process

- 3.7 The tender evaluation was carried out by a panel of officers from Procurement, Property & Assets and Brent Start.
- 3.8 All tenders had to be submitted electronically no later than noon on 26 November 2021. Tenders were opened on the same day and three tenders were received. Each member of the evaluation panel read the tenders and carried out an initial evaluation of how well they considered each of the award criteria was addressed in the tender.
- 3.9 The panel met on 20 January 2022 and each submission was marked by the whole panel against the award criteria. The Council's appointed technical consultants undertook a detailed evaluation of the pricing submissions. This review process included checking for any formulaic or mathematical errors and issuing queries to each bidder to clarify any qualifications or exclusions in order to ensure compliant bids were received.
- 3.10 During this process which included six rounds of pricing clarifications, Tenderer 1 was unable to substantiate their submitted pricing submission against the Council's technical consultants benchmarking costs to confirm their bid was accurate, achievable and sustainable. Therefore, tenderer 1's submission was marked as abnormally low in line with the instructions to tender. Both Tenderer 2's and Tenderer 3's bids were confirmed as compliant bids and their bids were considered fully.
- 3.11 The names of the tenderers are contained in Appendix 1 (exempt). The scores received by the tenderers are included in Appendix 2. It will be noted that Tenderer 2 was the highest scoring tenderer. Officers therefore recommend the award of the Contract to Tenderer 2, namely Hills Partnership Ltd.
- 3.12 The Contract will commence on 23 May 2022 subject to the Council's observation of the requirements of the mandatory standstill period noted in

paragraph 5.4 below.

4.0 Financial Implications

- 4.1 In January 2020, Cabinet approved a project budget of £43m for the Morland Gardens redevelopment.
- 4.2 The pre-tender estimate for the redevelopment works was £39,820,380. The highest scoring tenderer's bid is within the pre-tender estimate and the project's budget as set out in paragraph 4.1.
- 4.3 The remaining spend after factoring in other project costs (i.e. fees, surveys, etc.) will act as client contingency for this project.
- 4.4 The highest scoring tenderer has passed the Council's financial assessment for this contract.

5.0 Legal Implications

- 5.1 The value of the Contract over its lifetime is in excess of the Public Contracts Regulations 2015 (the "PCR 2015") threshold for Works and the award of the Contract is therefore governed by the PCR 2015. Section 3 of the report outlines how the Contract was procured in accordance with the PCR 2015.
- 5.2 The award of the Contract is subject to the Council's own Contract Standing Orders in respect of High Value Contracts and Financial Regulations. In this respect, it is noted that, in satisfaction of CSO 86(e)(ii), the Council's participation in the Framework has been confirmed as legally permissible by the Director of Legal, HR, Audit & Investigations and considered appropriate for use in respect of this Contract. The relevant Chief Officer (Strategic Director, Regeneration and Environment) also approved the pre-tender considerations raised in respect of this Contract as set out in CSO 89 and the inviting of tenders for the Contract in accordance with CSO 88, and has confirmed there is sufficient budgetary provision for the Contract as required by CSO 86(e)(ii)
- 5.3 In January 2021, Cabinet delegated authority to the Strategic Director of Regeneration and Environment in consultation with the Lead Members for Regeneration, Property and Planning and Education, Employment and Skills to award the Contract.
- 5.4 The Council will observe a minimum 10 calendar day standstill period under the PCR 2015 before the Contract is awarded. Therefore once the Strategic Director has determined which tenderer should be awarded the Contract, all tenderers will be issued with written notification of the Contract award decision. A minimum 10 calendar day standstill period will then be observed before the Contract is concluded – this period will begin the day after all Tenderers are sent notification of the award decision – and additional debrief information will be provided to unsuccessful tenderers in accordance with the PCR 2015. As

soon as possible after the standstill period ends, the successful tenderer will be issued with a letter of acceptance and the Contract can commence.

- 5.5 As required by the Framework, the Council followed the rules for tendering under the Framework including the use of call off contracts allowed therein. The Council had identified the JCT PCSA and Design & Build Contracts (2016) as suitable contracts allowed under the Framework.
- 5.6 Although the Council will award the whole contract, as detailed in paragraph 3.4, the scheme will be delivered in two stages. The first stage involves the Council entering into a pre-construction services agreement whereby the contractor will work with the Council to upgrade the scheme design, develop the existing design to RIBA Stage 4, update and finalise the fixed price contract sum and commence pre construction demolition. Subject to the Council being satisfied with contractor's delivery of pre-construction services, it will trigger the second stage, namely the construction works.

6.0 Equality Implications

- 6.1 The Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

- 6.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.3 The purpose of the duty is to enquire into whether a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision. Due regard is the regard that is appropriate in all the circumstances.
- 6.4 The Strategic Director, Regeneration and Environment is referred to the Equalities Implications described and the appended Equality Impact Assessment from the Morland Gardens Cabinet Report from January 2021. Officers do not consider there is any change in the equalities implications from the time of the January 2021 report.

7.0 Consultation with Ward Members and Stakeholders

7.1 The Cabinet Members for Regeneration and Planning and Jobs, Economy and Citizen Experience have been consulted as part of the drafting of this report. They have also been kept up to date with progress on the project.

7.2 Ward Members have also been kept up to date on the project progress and will continue to be as the project progresses through the contract stages.

8.0 Human Resources/Property Implications (if appropriate)

8.1 This contract will be provided by an external contractor and there are no implications for Council staff arising from tendering the Contract.

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. Whilst the Social Value Act is not strictly applicable to Works contracts, Officers have nonetheless had regard to considerations contained in the Social Value Act in relation to the procurement.

9.2 Ten percent of the overall evaluation criteria is allocated to Social Value and this is in line with the Council’s Social Value and Ethical Policy approved by Cabinet in April 2020. The highest scoring supplier will be offering employment opportunities, local supply chain involvement as well as initiatives and support for local community groups and businesses.

Related documents:

- Morland Gardens Cabinet Report January 2020
- Morland Gardens Cabinet Report January 2021
- Key Officer Decision to Retender August 2021

Report sign off:

Tanveer Ghani

Operational Director of Property & Assets (Acting).