



Brent

Cabinet
20 June 2022

**Report from the Strategic Director,
Regeneration & Environment**

**Authority to Tender for the Design & Build Contract at 1
Morland Gardens, Stonebridge**

Wards Affected:	Stonebridge
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Joy Ogbechi, Capital Project Manager Property & Assets, Regeneration & Environment Email: joy.ogbechi@brent.gov.uk Tel: 020 8937 3386 Neil Martin, Head of Capital Programmes (Schools) Property & Assets, Regeneration & Environment Email: neil.martin@brent.gov.uk Tel: 020 8937 4203

1.0 Purpose of the Report

- 1.1 This report concerns the redevelopment at 1 Morland Gardens, Stonebridge to deliver a new education centre, new council homes, affordable workspace, a public facing café, and public realm improvements. This report requests approval to invite a tender using a direct award procedure under the Network Homes Contractor Framework and approve the pre tender considerations as required by Contract Standing Orders 88 and 89.

2.0 Recommendation(s)

Cabinet is requested to:

- 2.1 Approve the inviting of a tender using a direct award process under the Network Homes Contractor Framework agreement on the basis of the pre-tender considerations set out in paragraph 3.6 of the report.
- 2.2 Delegate authority to award the contract for the Morland Gardens Redevelopment Design and Build Contract following the successful outcome of the tender exercise to the Strategic Director, Regeneration and Environment, in consultation with the Cabinet Member for Finance, Resources & Reform.

3.0 Background

- 3.1 On 14 January 2020, Cabinet approved a number of recommendations relating to the Morland Gardens redevelopment. Cabinet approved to support the proposal to invest up to £43m to deliver a state of the art adult education centre, 65 new affordable homes, 675 sq. metres of affordable workspace for start-up businesses from the local community and a public facing cafe. This also includes the cost of the 2 year service decant and £6.5m of GLA affordable housing grant.
- 3.2 Since then, the council has developed the design and received planning permission for the scheme in October 2020. A stopping up order has been submitted for the parts of the public highway required for development under s247 of the Town and Country Planning Act 1990.
- 3.3 The council also sought to procure a contractor for the scheme in May 2021 and May 2022 but both tender opportunities were unsuccessful. The first tender opportunity did not elicit any bids. The second tender opportunity elicited three bids and the council recommended the award of the contract as detailed in the Key Officer Decision report of 20 May 2022. This decision was subject to “call in”, during which period the Framework under which the contract was awarded, expired and so the council is required to procure a contractor again under a further procurement process. Resources and Public Realm Scrutiny Committee considered the “call in” at its meeting on 9 June 2022 and determined that the Committee did not object to the decision and the decision could therefore be implemented.
- 3.4 The estimated contract value of the procurement is £38m and having reviewed procurement options, Officers recommend the use of a direct award process under the Network Homes Contractor Framework agreement (the “Framework”). A direct award process using the Framework offers an efficient and effective route to appoint an appropriately qualified and experienced contractor to deliver the scheme. Approval was obtained from the Director of Legal, HR, Audit and Investigations on 14 June 2022 that it was legally permissible for the council to participate in the Framework.
- 3.5 The Framework allows the council discretion as to the form of contract to be used, to include contracts published by JCT, ACA and NEC together with such amendment as is considered appropriate. The contract for the redevelopment works at Morland Gardens is proposed to 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 2016 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 when all legal prerequisites are in place, commence pre-construction demolition. Subject to satisfactory completion of the first stage, the second stage will be triggered by the council by entering into the main construction contract with the contractor.

- 3.6 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of Cabinet.

Ref.	Requirement	Response														
(i)	The nature of the works	Demolition of the existing building, the design and build of a new adult education centre, 65 new council homes, a public facing café, and public realm improvements														
(ii)	The estimated value.	£38,000,000 (thirty eight million pounds)														
(iii)	The contract term.	Estimated 2.5 years plus 24 months defects liability period. This is made up of six months for PCSA and a two year build programme														
(iv)	The tender procedure to be adopted.	Direct Award from Network Homes Contractor Framework														
v)	The procurement timetable.	Indicative dates are: <table> <tr> <td>Invite to tender</td> <td>27.06.2022</td> </tr> <tr> <td>Deadline for return of tender</td> <td>06.07.2022</td> </tr> <tr> <td>Evaluation of bid.</td> <td>15.07.2022</td> </tr> <tr> <td>Report recommending Contract award circulated internally for comment</td> <td>21.07.2022</td> </tr> <tr> <td>Contract award decision</td> <td>22.07.22</td> </tr> <tr> <td>Expiry of Standstill Period and award</td> <td>03.08.22</td> </tr> <tr> <td>Contract Start Date</td> <td>04.08.22</td> </tr> </table>	Invite to tender	27.06.2022	Deadline for return of tender	06.07.2022	Evaluation of bid.	15.07.2022	Report recommending Contract award circulated internally for comment	21.07.2022	Contract award decision	22.07.22	Expiry of Standstill Period and award	03.08.22	Contract Start Date	04.08.22
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(vi)	The evaluation criteria and process.	<p>A contractor will be selected to tender based on a best value assessment using a combination of the contractor's tender submission for the Framework and its knowledge and experience of, or relationship to, the project site and resources available for the project.</p> <p>A tender will be invited from the contractor considered to demonstrate best value for the project and the panel will evaluate the tender to</p>														

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(vii)	Any business risks associated with entering the contract.	The delivery of the contract caused by current economic environment; availability of resources; increased costs to estimated contract value.																																																				
(viii)	The Council's Best Value duties.	The council has undertaken a recent tender exercise using a mini competition under a framework. It therefore has current evidence of market pricing for the project and this information can be used to check that pricing pursuant to a direct award process is competitive and this will support the council's Best Value duties																																																				

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(ix)	Consideration of Public Services (Social Value) Act 2012	10% of the evaluation is included for Social Value – see Section 9 below.
(x)	Any staffing implications, including TUPE and pensions.	See Section 7 below
(xi)	The relevant financial, legal and other considerations.	See sections below.
(xii)	Sustainability	Appropriate Sustainability Key Performance Indicators / Outcomes will be included in the contract.
(xiii)	Key Performance Indicators / Outcomes	Appropriate Key Performance Indicators / Outcomes will be included in the contract.
(xiv)	London Living Wage	The Contract will require the payment of the London Living Wage.
(xv)	Contract Management	The council has an appointed Project Manager and Employer's Agent to manage the contractor during the contract. Progress is then reported to the council's Project Manager and authorised person.

- 3.7 In order to avoid further delay on this project, Cabinet are requested to approve the delegation of authority to award the contract to the Strategic Director, Regeneration and Environment, in consultation with the Cabinet Members for Regeneration and Planning and Jobs, Economy and Citizen Experience.

4.0 Financial Implications

- 4.1 The Morland Gardens project budget was approved by Cabinet on 14 January 2020. The total project budget is £43m of which £41.5m was assigned for the redevelopment of the Morland Gardens site and £1.5m for the decant costs for Brent Start.
- 4.2 The pre-tender estimate for the redevelopment works was £39,820,380 and costs received from the tendering exercise completed in May 2022 came within this estimate and project budget.

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.

- 5.2 The contract is classed as a High Value Contract under the council's Contract Standing Orders (CSO) and Financial Regulations. Officers have determined that it would be most effective to procure the contract by way of a Framework Agreement (Framework) complying with PCR 2015 that has been set up by another authority (paragraph 3.4). As this procurement will proceed as a direct award from a framework agreement set up by another public authority, Contract Standing Orders requires the Director of Legal, HR, Audit and Investigations to confirm that it is legally permissible to participate in the identified Framework; this confirmation was given on 14 June 2022.
- 5.3 Contract Standing Orders 88 and 89 require Cabinet to approve the pre-tender considerations and invite tenders for High Value Contracts.
- 5.4 On completion of the tendering process, Cabinet is requested to delegate authority to award the contract to the Strategic Director, Regeneration and Environment in consultation with the Cabinet Members for Regeneration and Planning and Jobs, Economy and Citizen Experience. Officers will report to the Strategic Director, explaining the process undertaken in procuring the contract and recommending award.
- 5.5 As required by the Framework, the council will follow the rules for tendering under the Framework including the use of call off contracts allowed therein. As indicated in paragraph 3.5, the council has identified the 2016 JCT Pre-construction Services Agreement and the 2016 JCT Design & Build Contract (as a two-stage design and build approach) as suitable contracts allowed under the Framework.

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 Cabinet is referred to the Equalities Implications described and the appended Equality Impact Assessment from the Morland Gardens Cabinet Report from January 2020. Officers do not consider there is any change in the equalities implications from the time of the January 2020 report.

7.0 Staffing/Accommodation Implications

- 7.1 Clear and ongoing communication with staff will be required to ensure they understand the interim arrangements during Brent Start's time at its temporary location of Stonebridge Annexe whilst the delivery of the new building takes place. For example, staff will need to adjust their travel to work plans.

8.0 Consultation with Ward Members and Stakeholders

- 8.1 The Cabinet Members for Finance, Resources & Reform 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.
- 8.2 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.

9.0 Public Services (Social Value) Act 2012

- 9.1 The council is under 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. This duty does not strictly apply to the proposed contract as it is not a services contract. Nevertheless, Officers have 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 will be in line with the council's Social Value and Ethical Procurement Policy approved by Cabinet in April 2020. It is envisaged that the successful contractor should be able to offer local employment, apprenticeships and work experience to residents in Brent. It would be expected that the successful contractor would offer other community benefits to the residents in Brent. Bidders are required to identify a monetary value (or cash value) for each element of the Social Value that they offer. The monetary value should be 10% of the contract value. If suppliers do not deliver on the social value commitments, the council will look at claiming back the monetary value.

Related Documents:

- Morland Gardens Cabinet Report 14 January 2020
- Authority to tender Cabinet report 12 January 2021
- Authority to award Key Officer Decision 16 May 2022
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Report sign off:

Alan Lunt

Strategic Director, Regeneration
and Environment