



Officer Key Decision

Report to the Operational Director, Property and Assets

AUTHORITY TO AWARD CONTRACT FOR PICTURE PALACE REFURBISHMENT WORKS

Wards Affected:	Kensal Green & Harlesden
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	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 – tenderers (exempt) Appendix 2 – evaluation grid
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Name: Joy Ogbechi Job Title: Capital Project Manager Email: joy.ogbechi@brent.gov.uk

1.0 Purpose of the Report

- 1.1 This report concerns the refurbishment works at Picture Palace, 26 Manor Park Road, London NW10 DXX to deliver a new community centre to be run by a consortium of local charities known as Assets for Brent. 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 Operational Director, Property and Assets in consultation with the Deputy Leader and Cabinet Member for Finance, Resources and Reform:

- 2.1 Approves the award the contract for the two-stage design and build contract for the redevelopment works at Picture Palace to Ark Build Plc. for the sum of £2,140,218 which includes £1,727,880 Contract Sum Analysis as a budget estimate and Pre Construction Services Agreement tender submitted in the sum of £412,338.

3.0 Detail

- 3.1 On 11 November 2019 Cabinet approved the recommendations within the 'Inclusive Growth in Harlesden Town Centre' report that set out the aspirations for Harlesden as a whole. The paper set out a proposed programme for creating long-lasting positive change to the town centre for the benefit of the communities that live there. It has been developed with the input of officers from across the council – including Libraries, Children and Young People (CYP), Property, Finance, Regeneration, Strategy & Partnership, London Borough of Culture (LBOC) and Employment, Skills, and Enterprise. The paper set out a proposal for the acquisition and fit out of Picture Palace, an old disused and empty former pub and cinema.
- 3.2 Following the purchase of the building, remedial works and strip out works were commissioned and completed in February 2021. Officers have worked with Assets for Brent Consortium, a community organisation that will occupy part of the building on completion in order to develop outline designs as part of a feasibility study.
- 3.3 As part of this feasibility study, the following works were identified:
- Structural changes
 - Mezzanine floor installation
 - Lift installation
 - Café, kitchen, toilets, and office space created
 - General refurbishment of the building

- 3.4 On 20 May 2022 the Operational Director of Property and Assets gave approval for Officers to invite tenders using the L&Q Build London Partnership Framework.
- 3.5 Tenders were invited from interested parties under the framework to delivery of the project from RIBA Stage 1. It is to be noted that the winning bid of £2,140,218 is within the Council's pre-tender estimate of £2.5m.
- 3.6 It is noted that a Contract Sum Analysis (CSA) has also been issued to the tendering contractors in order that a guide price for the build be obtained. Bidder 1 have returned a budget estimate only at this stage in the sum of £2,140,218. They have stated that due to the conceptual nature of the design to date and the detail to be developed further in the Pre-Construction Services Agreement (PCSA) period they are unable to fix any costs. This has therefore resulted in the costings being a series of Provisional Sums which will be evaluated on an open book basis as the design is developed.

The Tender Process

- 3.7 Officers reviewed a range of procurement options including conducting a tender process but have concluded that the use of the Framework is the most appropriate means of procuring a contractor given the reduction in time-scales, costs and resources involved.
- 3.8 The contract for the refurbishment works at Picture Palace (the Contract") will be let using two-stage Design and Build Contract. The first stage is the 2016 JCT PCSA for six months followed by a 2016 JCT Design and Build contract for 10 months.
- 3.9 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 29 April 2022. Contractors were provided with the technical information and details of the tender approach and were invited to bid on 25 May 2022.
- 3.10 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: 40%
 - Quality: 45%
 - Social Value: 10%
 - Sustainability 5%

Evaluation process

- 3.11 The tender evaluation was carried out by a panel of officers from Procurement,

Property & Assets and Brent Start and Head of Strategy and Partnerships.

- 3.12 All tenders had to be submitted electronically no later than noon on 27 June 2022. Tenders were opened on the same day and two valid 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.
- 3.13 The panel met on 8 July 2022 and each submission was marked by the whole panel against the award criteria. The Council's appointed Cost Consultant carried out the commercial evaluation with the Procurement team.
- 3.14 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 Bidder 1 was the highest scoring tenderer. Bidder 2 is non-compliant due to their scores and has been excluded from the final process as they failed the quality evaluation. Officers therefore recommend the award of the Contract to Bidder 1, namely Ark Build Plc.
- 3.15 Calling off a mini-competition from the L&Q framework does not require a standstill period. However, Procurement has recommended we follow best practice of allowing for a 10 day standstill period. The contract will be awarded from the 22 August 2022 subject to the Council's observation of these requirements.
- 3.16 The contract price of £2,140,218 includes the £1,727,880 Contract Sum Analysis ('CSA') as a budget estimate and PCSA tender submitted in the sum of £412,338.
- 3.17 There is a risk the estimated budget can take the contract over the £2.5m. However, should the CSA substantially increase over the pretender estimate there is a break clause in the PCSA that enables the Council to re-tender the construction works to bring the overall budget back in line.

4.0 Financial Implications

- 4.1 In November 2019, Cabinet approved a capital project budget of £4.9m for the acquisition and fit out of Picture Palace. To date, £2.0m has been spent which leaves £2.9m.
- 4.2 The proposed award value of £2,140,218 is within the remaining budget for this project. As mentioned in para 2.1 in the Recommendation section of this report, the proposed contract has two elements:
- i) Contract for the design works with final award value of £412,338, and
 - ii) Contract for the main works with a provisional value of £1,727,880.

The value of the main works contract can only be finalised once the design works under the first part of the contract is complete and a final scope of the main works is worked out. Apart from being impacted by any changes in scope compared to what is envisaged at this stage, the value of the main works contract is also subject to the inflationary pressure currently prevalent in the market.

- 4.3 We understand that the main works contract element has a break-clause enabling the Council to walk away from this contract in the event the final price is significantly higher than the provisional value. This can mitigate the risk of excessive price increases provided better prices can be obtained through retendering exercise at that time.
- 4.4 The proposed contractor Bidder 1 have passed the financial assessment carried out in the Council's assessment template.

5.0 Legal Implications

- 5.1 The value of the contract is below the threshold for works contract under the Public Contracts Regulations 2015 (the "PCR 2015") and section 3 of the report outlines the process Officers followed in procuring the works contract under a PCR 2015 compliant framework.
- 5.2 The award of the Contract is subject to the Council's own Contract Standing Orders ('CSO') and Financial Regulations in respect of Medium Value Contracts. 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 Officer (Operational Director – Property & Assets) also approved the pre-tender considerations and the inviting of tenders in respect of this Contract, in accordance with CSO 89 and 88 respectively, and has confirmed there is sufficient budgetary provision for the Contract as required by CSO 86(e)(ii).
- 5.3 Under section 3(a) of the table at paragraph 9.5 of Part 3 of the Constitution, approval to award works contract with a value of up to £5,000,000 is delegated to the relevant Strategic Directors. Operational Directors also have delegated to them the same powers under paragraph 9.7 of Part 3 of the Constitution, (subject to the same restrictions as would apply to their Strategic Director) in so far as the matter relates to the service area which the relevant Operational Director is responsible for. As this contract relates to works that the Operational Director Property & Assets is responsible for, it is considered that the Operational Director of Property & Assets has delegated authority to approve the award of the contract to Ark Build Plc.

- 5.4 Once the Operational Director of Property & Assets has determined which tenderer should be awarded the Contract, all tenderers will be issued with written notification of the Contract award decision.
- 5.5 Officers have confirmed in section 3 above that the L&Q Build London Partnership Framework rules were followed in tendering the Contract and the JCT PCSA and Design & Build Contracts (2016) identified as suitable contracts for the project will be executed by the parties at the relevant time for the contract to commence.
- 5.6 Although the whole contract will be awarded as detailed in the recommendation, the project 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 develop the design to RIBA Stage 4, update and finalise the fixed price contract sum. 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 Operational Director, Property and Assets is referred to the Equalities Implications described in the appended Cabinet Paper 'Harlesden Investment 11 November 2019' Officers do not consider there is any change in the equalities implications from the time of the November 2019 report.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 The Deputy Leader and Cabinet Member for Finance, Resources and Reform; has 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. 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 Policy approved by Cabinet in April 2020.
- 9.3 The successful contractor proposed to provide the following:

Strong Foundations: To provide a number of work experience opportunities provided to pupils (for disadvantaged groups) within Harlesden area; offer and provide training courses targeted at voluntary group within the Harlesden locality and work alongside residents and organisations in parts of Brent that are particularly disadvantaged, with a view of improving outcomes

Every Opportunity to Succeed: An apprentice will be offered work, which will initially be based on the Picture Palace site, or other local site within Brent or adjacent Boroughs, in order that they gain the requisite trade experience.

A Future For Everyone: They will provide a fiscal value for cash investment into project based in Brent, from suitable organisations identified by the Council.

Related documents:

Cabinet Paper 11 November 2019
Recordable Decision 20 May 2022

Report sign off:

Tanveer Ghani

Operational Director Property and Assets