

	Officer Key Decision
	Report to the Corporate Director, Finance and Resources
Authority to Award the contract to design and build the London Road SEND School Development	

Wards Affected:	Wembley Hill
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>	Open
No. of Appendices:	Appendix 1 – 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 new Special Educational Needs and Disabilities (SEND) School proposed for London Road. 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 tender, recommends to whom the contract should be awarded.

2.0 Recommendation(s)

That the Corporate Director, Finance and Resources in consultation with the Lead Member for Children, Young People and Schools and the Corporate Director, Children and Young People:

2.1 Approves the award of two-stage design and build contract for the SEND School development at London Road to Reds10 (UK) Limited for a total sum of £16,258,982.95.

3.0 Detail

- 3.1 In November 2021, Cabinet approved the School Place Planning Strategy Refresh. This report evidenced the growing demand for places that meet the needs of children and young people with SEND. To meet this growing need and to tackle increasing pressures on the High Needs Block of the DSG, creating additional local school places for children with SEND is identified as a key part of the School Place Planning Strategy and is also contained within the new SEND Strategy (2021-24).
- 3.2 In January 2022, Cabinet approved the SEND Capital Programme Business Case which detailed how the Council intends on increasing SEND provision within the borough to meet the growing need as well as reducing the pressure on the High Needs Block of the DSG. The programme aims to deliver 427 places along with capital improvement projects to enhance accessibility at mainstream schools. The cost of the approved programme is £44.19m and this will be funded by Basic Need, High Needs Capital Grant and the Special Provision Fund.
- 3.3 One of the identified work streams within the SEND Capital Programme is the provision of a new SEND school at London Road. This project will create 150 new SEND places. It is expected that the new school will open in the 2024/25 academic year. The project business case was approved by the Strategic Director, Regeneration and Environment in July 2022.
- 3.4 In September 2022, the Director, Property & Assets approved the pre-tender considerations for this project using a two-stage design and build contract and procured via a mini-competition process under the DfE MMC1 Offsite Schools Framework Agreement (the “Framework”) under Lot 2 (Scheme GIFA Range 750m² – 6,000m² projects). The Council is proposing to appoint a contractor using this framework as it allows access to economical build rates owing to the proposed volume of work expected to be called off from the Framework. These would not be available using alternative procurement means

The Tender Process

- 3.5 The contract for the London Road SEND School development works (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, submit a planning application and update and finalise the fixed price contract sum. Subject to satisfactory completion of the first stage, the second stage will be triggered by the Council by entering the main construction contract with the contractor.
- 3.6 In accordance with the Framework’s rules, all bidders on the Framework Lot were invited to express an interest in the opportunity. The expression of interest was issued on 8 November 2022 and the Council received four responses on

22 November 2022. The tender invitation was issued via the London Tenders Portal on 6 December 2022. The bidders were provided with the technical information to consider the opportunity and submit a bid.

- 3.7 The tendering instructions stated that the Contract would be awarded based on the most economically advantageous offer to the Council and that in evaluating tenders, the Council would have regard to the following:
- Quality: 60%
 - Management Team Resources
 - Approach to Delivery, Risk and Programme
 - Scheme Specific Proposals, including Social Value which will be 10% of the overall tender evaluation criteria
 - Price: 30%

Evaluation process

- 3.8 The tender evaluation was carried out by a panel of officers from Procurement, and Property & Assets.
- 3.9 All tenders had to be submitted electronically no later than noon on 13 January 2023. Tenders were opened on the same day and one valid tender was 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.
- 3.10 The panel met, and the submission was marked by the whole panel against the award criteria. The Council's appointed technical consultants undertook a detailed evaluation of the pricing submission. This review process included checking for any formulaic or mathematical errors and issuing queries to the bidder to clarify any qualifications or exclusions in order to ensure the bid received was compliant.
- 3.11 The scores received by the tenderer are included in Appendix 1. Officers recommend the award of the Contract to the sole tenderer, namely Reds10 (UL) Limited.
- 3.12 The contract sum of £16,258,982.95 includes the £14,603,569.87 for the Contract Sum Analysis as a budget estimate and £1,655,413.08 for the PCSA.
- 3.13 The Contract will commence on 23 February 2023 subject to the Council's observation of the requirements of the five day call in following contract award.

4.0 Financial Implications

- 4.1 In January 2022, Cabinet approved a capital programme budget of £44.19m for the SEND Capital Programme Business Case. For this specific project, a budget of £20m was approved.

- 4.2 The proposed contract value of £16,258,982.95 can be met from the approved budget outlined in paragraph 4.1.
- 4.3 The financial assessment of the proposed contractor was carried out at prequalification stage which showed it was satisfactory.

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 (Director, Property & Assets) 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 2022, Cabinet delegated authority to the Strategic Director, Regeneration and Environment in consultation with the Lead Member for Schools, Employment and Skills and the Strategic Director, Children and Young People to award works contracts valued in excess of £5m. These designations have changed since this approval and the resultant delegated authority to award the contract would be to the Corporate Director, Finance and Resources in consultation with the Lead Member for Children, Young People and Schools and the Corporate Director, Children and Young People.
- 5.4 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.
- 5.5 Although the Council will award the whole contract, as detailed in paragraph 3.5, 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, submit a planning application and 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 Corporate Director, Finance and Resources is referred to the equalities implications described in the School Place Planning Strategy 2019 – 2023 and the subsequent annual refreshes. Officers do not consider there is any change in the equalities implications from the time of this report.

7.0 Consultation with Ward Members and Stakeholders

7.1 The Lead Member for Children, Young People and Schools 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 will also be kept up to date on the project progress as it 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.

Report sign off:

Tanveer Ghani

Director, Property & Assets