

	Officer Key Decision
	Report to the Corporate Director of Finance and Resources
	Lead Cabinet Member Children, Young People & Schools
Authority to trigger the second stage of the two-stage design and build contract for the SEND School at London Road	

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>	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)"
List of Appendices:	1
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Name: Neil Martin Job Title: Head of Capital Delivery Email: neil.martin@brent.gov.uk

1.0 Executive Summary

1.1. This report concerns the new Special Educational Needs and Disabilities (SEND) School proposed for London Road. This report requests authority to trigger the second stage of the two-stage design and build contract awarded to Reds10 (UK) Limited for the design and build of the London Road SEND School development. This report summarises the process undertaken to formalize the second stage contract sum during the first stage of the two-stage design and build contract.

2.0 Recommendation(s)

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

2.1 Approves the triggering of the second stage of the two-stage design and build contract with Reds10 (UK) Limited for the SEND School development at London Road for a sum of £22,011,669.85.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

3.1.1 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. 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.

3.1.2 This project delivers on Strategic Priority 4 The Best Start in Life from the Council's Borough Plan 2023 – 2027 through the investment in additional SEND places. This project also meets objectives within with the Council's School Place Planning Strategy 2024 – 2028 and SEND Strategy 2021 – 2025.

3.2 Background

3.2.1 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.

3.2.2 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 2025/26 academic year. The project business case was approved by the Strategic Director, Regeneration and Environment in July 2022.

3.2.3 In February 2023, 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 approved the award of the two-stage design and build contract for the London Road SEND School development to Reds10 (UK) Limited for £16,258,982.95. The contract sum was made up of a first stage cost of £1,655,413.08 and a proposed second stage contract sum analysis, based on the information available at the time of tender of £14,603,569.87.

3.2.4 The contract for the London Road SEND School development works (the "Contract") is 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.

- 3.2.5 Since the contract award in February 2023, the contractor has undertaken end user and client engagement to develop the designs; successfully obtained planning permission for the scheme in December 2023, developed the initial design from RIBA Stage 1 to RIBA Stage 4 and proposed a fixed price contract sum for the works.
- 3.2.6 The contractor's design proposals have been considered acceptable by the Council's technical consultants and the fixed price contract sum for the second stage of the contract (the works) is £22,011,669.85. This is £5.8m above the initial second stage contract sum analysis and is due to the reasons as set out in Appendix 1.
- 3.2.7 The two alternative options available to the recommended option in this report would be to seek a re-procurement of the main works contract or not deliver the project at all. Within the alternative option to seek a re-procurement, the Council would have the following sub-options:
- a. Seek tenders from alternative Modular Contractors – this has been discounted as the school has been designed by a specific Modular Contractor to their module sizes so any new contractor would need to undertake a redesign which would lead to an increase in cost and time.
 - b. Seek tenders from alternative main contractors – this has been discounted as the school has been designed by a Modular Contractor. Any Main Contractor would add their own Overheads and Profit to subcontract the scheme. Alternatively, they could seek to amend the design to a traditional build method. Either way, these options would require a redesign which would lead to increased cost and time.
- 3.2.8 The option not to deliver the school build has been discounted as the 150 SEND places to be provided at London Road would not be delivered. The Council would therefore continue to transport SEND pupils out of borough for school places and this would put further revenue pressure on the High Needs Block.
- 3.2.9 Therefore, despite the increase in the cost to deliver the scheme from the original tender sum, it is recommended to award the main works contract to Reds10 in order to provide the much needed additional SEND places. This recommended action would cost less than re-procuring the works contract and avoid adding revenue pressure to the High Needs Block.

4.0 Stakeholder and ward member consultation and engagement

- 4.1 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.
- 4.2 Ward Members were updated on progress including pre-planning consultation events and when the planning application was submitted. Officers will continue

to update Ward Members on the project progress as it progresses through the construction stages on site.

- 4.3 The Academy Trust who will operate the school have been involved in the design of the school and the Department for Education (DfE) have been kept up to date with progress on the project's delivery as part of the Free School set up process.

5.0 Financial Considerations

- 5.1 As set out in the SEND Programme approved by Cabinet, the project is funded by Basic Need, High Needs Capital Grant and Special Provision Funding all from the DfE.

- 5.2 The programme budget was £44.2m. At the time of drafting this report, £7m has been spent, leaving £37.2m. Therefore, there is enough funding in the programme to award the works contract. Further, any additional costs to the project or programme can be funded via the unallocated 2021 High Needs Capital Grant £3.65m and the recently provided 2024 High Needs Capital Grant of £7.4m from the DfE.

- 5.3 As discussed in section 3.2, although the cost of the contract award has increased since the original tender in February 2023, the contract award will cost less than re-procuring.

6.0 Legal Considerations

- 6.1 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 provisions of the PCR 2015. The authority to award report from February 2023 outlines how the Contract was procured in accordance with the Regulations.

- 6.2 Although the Council awarded the whole contract, as detailed in paragraph 3.2.4, the scheme is being delivered in two stages. As mentioned above, the first stage being the pre-construction services has been completed and the Council is satisfied with the contractor's delivery of the pre-construction services, the resultant contractor proposals and second stage contract sum. Officers therefore recommend that the second stage of the contract namely the construction/works stage is triggered.

- 6.3 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 the said Cabinet delegation 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.

- 6.4 The contract will be administered using the JCT Design and Build contract 2016 with the DfE amendments (as calling off the DfE MMC1 Framework) which was included as part of the tender documentation.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

- 7.1 The Public Sector Equality Duty, as set out in section 149 of the Equality Act 2010, requires the Council, when exercising its functions, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, to advance equality of opportunity and foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

- 7.2 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

- 7.2 This report is considered to be a precursor for a new asset that will have positive EDI implications as the proposed school will provide additional places and support for children and young people with SEND. Additionally, the Corporate Director, Finance and Resources is referred to the EDI implications described in the School Place Planning Strategy 2024 – 2028 ([School Place Planning Strategy 2024-2028 | Your Council | Brent](#)). Officers do not consider there is any change in the EDI implications from the time of this report.

8.0 Climate Change and Environmental Considerations

- 8.1 The school building is being built to high environmental and energy efficiency standards. The contractor is aiming for BREEAM Outstanding which is beyond that of the DfE school specification and Brent Planning requirements. Further, the building will be heated by air source heat pumps and have a large number of solar panels to reduce energy grid consumption.

9.0 Human Resources/Property Considerations (if appropriate)

- 9.1 This contract will be provided by an external contractor and there are no implications for Council staff arising from tendering the Contract.
- 9.2 Upon completion of the works contract, the school site will be leased to The Rise Partnership Trust under a 125 year lease as per Free School set up requirements.

10.0 Communication Considerations

10.1 Along with updating Ward Councillors, the contractor will keep local residents updated on construction progress throughout the contract to minimise the impact of the construction project on London Road residents.

Report sign off:

Minesh Patel

Corporate Director of Finance and Resources