



**Cabinet**  
15 December 2014

**Report from the Strategic Director of  
Regeneration and Growth**

For Action

Wards affected:  
ALL

**Authority to award contract for building works at Manor  
School, Chamberlayne Road, Kensal Green**

**APPENDIX A IS NOT FOR PUBLICATION**

**1.0 Summary**

- 1.1 In August 2014 Cabinet approved the allocation of additional funds to meet estimated costs of providing additional school places at Manor School in order to meet the Council's statutory duty (£2.182m total project cost). Cabinet also approved the commencement of the procurement process for the building contract works, based on pre-tender considerations set out in the report.
- 1.2 Tenders have been received and evaluated on the basis of the evaluation criteria as set out in the August Report. As such, this report requests authority to award a building contract, as required by Contract Standing Order No 88. This report summarises the process undertaken in tendering this contract and recommends to whom the contract should be awarded.
- 1.3 A further report is being submitted to the 15 December Cabinet seeking authority to permanently expand Manor School. As a result, the recommendation to award a contract contained in this report is subject to Cabinet agreeing the permanent expansion of Manor School.

**2.0 Recommendations**

The Cabinet is recommended to:

- 2.1 Award the works contract for the construction works at Manor School to Cosmur Construction Ltd at a price of £953,572, subject to Cabinet approval of the permanent expansion of Manor School.

### **3.0 Detail**

#### Background

- 3.1 Brent Council has a statutory duty to ensure sufficient school places are provided. There is a shortfall of Special Educational Needs (SEN) school places to meet current and projected demand. The Council has been awarded Targeted Basic Need (TBN) grant funding of £1.541m by the Education Funding Agency (EFA) in order to provide an additional 44 SEN Places at Manor School. In order to comply with the conditions of that grant funding and therefore retain it, all 44 additional places must be available and all of the TBN funding allocated to the project must be fully spent by 31 August 2015. At the August 2014 meeting, Cabinet noted that the total estimated cost of works (£2.182m) required to provide these additional places exceeded the TBN funding available and approved the allocation of additional funds (£641k) from the Council's Basic Needs Capital Grant allocation to assist in delivery of the additional school places. There is sufficient funding to deliver this project.
- 3.2 This report seeks the award of contract for the proposed building works which will enable Manor School, a special school catering for children aged between 4 and 11, to increase its capacity from 132 school places to 176 pupil numbers. Key stakeholders, in particular Manor School Governing Body, the school Head and other staff members have had input in the proposed scheme design and have fully co-operated in accommodating pre-main contract works (enabling works), which commenced in summer 2014 and completed in November 2014, whilst operating day-to-day school management.
- 3.3 The proposed main building contract works achieved Planning Consent on 17 September 2014 and include part new-build and part alterations/re-modelling works as well as considerable and much required improvements to the external play areas. The proposed design refurbishment, alterations and new-build proposals will support the education delivery, facilities and amenities for pupils and so enhance pupils' educational and life-skills experience once works are completed.
- 3.4 It is expected that the main building contract works will complete by the end of August 2015, assuming works start on site in January 2015. Cabinet is reminded that, to comply with EFA regulations, the TBN funding element is to be spent by end of August 2015 and also the additional school places made available. As previously reported enabling works were undertaken and are now completed. It is expected that the remaining building works will therefore complete to programme.

#### Procurement Process

##### Appointment of Lead Design Consultants

- 3.5 Sampson Associates Architects (SAA) were appointed in April 2014, following a mini-competition, initially to report on the feasibility of increasing the Manor School capacity to accommodate an additional 44 pupils. SAA's appointment does however extend to project managing the building works should Cabinet approve the award of the works contract and the permanent expansion of the school. SAA is a multi-disciplinary practice providing the role of Lead Consultant, Architect, Quantity Surveyor, CDM Planning Co-ordinator in-house and sub-contracting of associated engineering roles and has worked with Brent to deliver numerous successful capital education projects.

#### Procurement process and evaluation of tenders

- 3.6 The procurement process followed is set out in the August 2014 report to Cabinet which approved the pre-tender considerations. In short, an open tender process was used. Adverts were placed on the e-Portal on 4 September 2014. Tender documents and Invitations to Tender were posted on the 26 September to interested parties with a tender submission date set for 17 October 2014. In total 78 Companies expressed interest in the project, of whom 26 subsequently formally opted out; 42 did not offer a tender but did not formally opt out and 10 submitted tenders. There were no late responses.
- 3.7 As reported in August, the open tender process involved use of a qualification questionnaire to identify organisations meeting the Council's financial standing requirements, technical capacity and technical expertise. Tenders were evaluated to identify the most economically advantageous tender using evaluation criteria consisting of Quality criteria (with a combined weighting of 60%) to include logistical approach and preliminaries, procurement and supply chain strategy, programme and programme efficiencies and Price criteria (with a combined weighting of 40%) to include the cost and benchmarks and the quality of the pricing submission.
- 3.8 Of the 10 tenders received, three failed to satisfy the requisite requirements of adequate experience in working on similar projects and/or proving that they met the Council's financial standing requirements. Nevertheless, all 10 tenders were evaluated by Brent Officers, in accordance with the evaluation criteria and scored in accordance with the scoring protocol and matrix included in the tender documents and approved by August Cabinet. SAA's analysis of all 10 tenders included checking for errors, omissions and qualifications that tenderers may have applied to each tender.
- 3.9 Following the initial evaluation of bids and as provided for in the tender documentation, the three highest scoring tenderers were invited to interview by Officers, the School Head and Site Supervisor and SAA on 24 October, at the school. The purpose of the meeting was to seek clarification on the tender submissions and to answer questions arising from that meeting and from the tender analysis.
- 3.10 Prior to the meeting, the highest scoring bid was from Contractor A, Cosmur Construction Ltd; with the second and third placed scores from Contractor B and Contractor C. All the contractors' names are detailed in Appendix A and their scores are shown in Appendix B.

- 3.11 Following the meeting, Brent Officers received feedback from the attendees and were then able to conclude the evaluation of tenders. The result is that Contractor A, Cosmur Construction Ltd remains the highest scoring tenderer, whose tender contained no arithmetic errors and demonstrated a good understanding of the project and programme sensitivities. Final scores are detailed in Appendix B. Cosmur Construction Ltd has confirmed that, should mobilisation commence in December 2014 and works start-on-site in January 2015, it is possible to complete the main contract building works within the required time, by end of August 2015. In turn, this will mean that TBN funding will have been fully spent, as required by the EFA and that school places will be available from 01 September 2015; in essence the scheme will therefore deliver on TBN compliancy requirements.
- 3.12 Subject to Cabinet approval to both the expansion of Manor School and to approval to the award of the works contract, the form of build contract will be JCT Standard Form of Building Contract (SBC/XQ) 2011 un-amended, save for the provision that the contractor's insurances include an "Indemnity to Principle Clause".
- 3.13 This report seeks approval to award a works contract following this procurement process, subject to Cabinet approval to permanently expand the school. A report is due to be presented to the December 2014 Cabinet committee from the Strategic Director of Children & Young People's Department reporting the outcome of statutory consultation to increase the pupil numbers at Manor School and recommending approval to expand.

#### Project Cost

- 3.14 As stated in paragraph 3.1 above, the estimated total project cost to deliver the proposed scheme was reported at £2.182m, with costs to undertake the main building contract estimated at £1.6m. The August Cabinet approved an additional sum of £641k to be added to the TBN grant fund of £1.541m to meet project costs to enable project procurement to commence.
- 3.15 The contract sum tendered by Cosmur Construction Ltd is £953,572.00. This sum is considerably lower than the estimate reported to the August Cabinet (£1.6m) but includes all the required works to deliver fit-for purpose part-new-build and part remodelled works, including new classrooms, life-skills classroom, music room, art room and staff preparatory rooms. Some of the difference in cost estimate between the proposed contract sum and estimate provided in August is attributable to the enabling works contract procured separately and undertaken during the summer holiday period in order to mitigate the risk of loss of grant funding, thereby ensuring that the whole scheme is on target to be fully delivered within budget of £2.182m.
- 3.16 Whilst Planning Consent has been granted, the design of the external play areas is subject to a condition requiring further design. This design can continue alongside main works and time has been allowed in the programme.

## **4.0 Financial Implications**

- 4.1 Cabinet noted, in a report on 26 August 2014, that the Education Funding Agency awarded the Council £1.541m of Targeted Basic Need (TBN) grant funding in October 2013 to support capital works required to accommodate an additional 44 pupils at Manor School and that all of this fund is to be spent by end of August 2015. In August, Cabinet approved a further £641k to be made available from Basic Need Capital to enable the project to proceed. There is therefore sufficient capital funding available to award this contract.
- 4.2 The contract sum tendered by Cosmur Construction Ltd at £953,572.00 is considerably lower than the estimate reported to the August Cabinet (£1.6m). The tender delivers all the required works but elements of the original forecast cost have been delivered through a separate enabling works contract and undertaken during the summer holiday period in order to mitigate the risk of loss of grant funding. There is a remaining element of the scheme design in regard to external features and provision of a MUGA which are yet to be finalised and costed. Upon completion of this element of the design process, the scheme budget requirement will be reviewed and any forecast reduction to Cabinet within the Quarterly Budget Monitoring process.
- 4.3 Officers have carried out an independent review of Cosmur Construction Ltd's financial standing and have concluded that the company has sufficient financial stability to undertake the contract.
- 4.4 The Council's Contract Standing Order 88 states that works contracts exceeding £500k (High Value Contracts) shall be referred to the Cabinet for approval to procure and for its subsequent approval to award a contract. Accordingly, as the proposed contract sum exceeds £500k, Cabinet is requested to approve the works contract to Cosmur Construction Ltd, thus enabling works to start as soon as possible at the start of the calendar year January 2015 and complete by end of August 2015.
- 4.5 The benefit of awarding the contract for the main building works in December is to enable the contractor to mobilise in December, thereby allowing sufficient time for the building works to run for 9 months from January 2015 to August 2015, the programme to which the preferred and recommended contractor has confirmed can be met. This being the case, the full TBN grant funding will have been spent and accommodation available for the additional pupils to occupy.
- 4.6 The financial benefits to be gained by delivering 44 additional school places at Manor School by progressing a construction scheme was noted in the 26 August report to Cabinet. It was reported that the Council could achieve cost avoidance in regard to out borough placements and on transporting costs which would otherwise amount to £968,000, in one full year. It is reiterated that this figure relates to the avoidance of additional costs rather than savings to existing revenue budgets.

- 4.7 Cabinet are to consider for approval the expansion of Manor School in a separate report on 15 December 2014. It has previously been noted that any costs incurred by the Council in regard to enabling works, associated fees and development costs prior to a Cabinet approval for an award of contract subject to the outcome of the consultation on the expansion of pupil numbers is at risk. Should the Cabinet approval not be obtained and the scheme not proceed any such costs would have to be treated as abortive and recharged to the Council's revenue account within which there is no budget for such costs. The Council would not be able to utilise any EFA capital funding should the scheme become abortive and any TBN grant associated with the scheme would have to be returned.

## **5.0 Legal Implications**

- 5.1 Under sections 13 and 14 of the Education Act 1996 as amended by the Education Acts 2006 and 2011 the local authority has a general statutory duty to ensure there are sufficient school places available to meet the needs to include any special educational needs of the population in its area. The local authority must promote high educational standards, ensure fair access to education opportunity and the fulfilment of every child's educational potential. To discharge this duty the local authority has to undertake a planning function to ensure that the supply of school places balances the demand for them.
- 5.2 Cabinet in August authorised the use of additional funding of £641k required to top-up Targeted Basic Need funding of £1.541m to assist in delivering the provision of the additional school places and also authorised that the procurement process for the main building contract works may commence. This authorisation was required ahead of the consultation on expanding school numbers, so that time-lines and compliancy of TBN funding, as set by the EFA could be adhered to. However, the August Cabinet noted that neither approval for authorisation would commit the Council to proceeding with the expansion should Cabinet in December 2014, having had regard to the statutory process on the expansion of pupils numbers decide not to proceed with the expansion at Manor School. However, the financial implications of not proceeding with the expansion of pupil numbers is detailed in paragraph 4.5 above.
- 5.3 The Cabinet is requested to approve the award of contract to Contractor A Cosmur Construction Ltd. The contract value is £953,572 and is therefore below the EU threshold for works contracts of £4,322,012. As such, award of the contract is not governed by the Public Contracts Regulations 2006. The works contract is however classed as a High Value Contract under the Council's constitution. As such, the Council's Cabinet must approve award of contract in accordance with Contract Standing Order 88.
- 5.4 Given that timing is critical to this project, the contract will contain provision that performance must be completed before the end of August 2015.

## **6.0 Diversity Implications**

- 6.1 The EIA, attached as Appendix C, is extracted from the report to 26 August Cabinet from the Strategic Director of Regeneration & Growth Item No. 7: Proposed Expansion of Manor School, Chamberlayne Road, Kensal Green.
- 6.2 The proposal for expansion at Manor School is one of a number of schools proposed for expansion that has an ethnically diverse pupil population and catchment of pupils who need school places. Expansion provision will help to improve choice and enhance diversity and enable the Council to provide additional new places required for Brent's growing pupil population.
- 6.3 The report to August Cabinet noted statements from the Director of Children and Families 'Education Business Case for Expansion at Manor School' which notes the rising increase in demand for specialist education placements over the years and the resultant pressures facing the Council's Special Educational Needs and Disability (SEND) services. The Council's statutory duty to provide sufficient school places for children within its area and the need for pupils to be placed out borough due to a lack of suitable school places in borough is also detailed.
- 6.4 The proposal to provide an additional 44 pupil places will help to meet growing demand and achieve considerable educational and financial benefits, as has been reported previously. Manor School is a special school with a Good Ofsted rating; it is popular with parents and pupils and its expansion will also help to meet parental demand and enable 44 children with significant special educational needs to access a local special school who would otherwise have to be placed in independent special schools at some distance from their home addresses.
- 6.5 The proposed design refurbishment, alterations and new-build proposals will support the education delivery, facilities and amenities for pupils and so enhance their inclusion in the expansion programme.

## **7.0 Staffing/Accommodation Implications**

- 7.1 The building works to accommodate the expansion of Manor School by 44 additional pupil numbers will improve conditions of teaching accommodation, offer improved external play areas and will thereby facilitate the organisation, management and operation of teaching systems throughout the school.
- 7.2 There will be additional job and career opportunities for staff at Manor School in order to cater for additional pupils.

## **8.0 Public Service (Social Value) Act 2012**

- 8.1 Whilst the Public Services (Social Value) Act 2012 (the "Social Value Act") does not apply to works contracts, Officers have had regard to considerations relevant to the Social Value Act in this procurement, namely the how the contract might improve the economic, social and environmental well-being of its area; and how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should

undertake consultation.

- 8.2 The contract being procured has as the primary aim of improving the social wellbeing of one of the most vulnerable groups in Brent. Pupils and parent are being consulted regarding the proposed expansion of pupil numbers at the Manor School which will directly impact on the works contract.
- 8.3 It is to be noted that the Preferred Contractor, Cosmur Construction Ltd is locally based contractor to the school and has a local supply of sub-contractors; this will serve to enhance local employment opportunities.

### **Background Papers**

26 August Cabinet Report, Item 7: Proposed expansion of Manor School

Director of Children & Families Education Business Case for Expansion at Manor School, dated 15 July 2014

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