



Cabinet
11 April 2016

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

For Action

Wards Affected:
All

**Authority to award the works contracts for the Design and Build of
Phase 3 Primary School Expansion Projects**

Appendix 1 is Not for Publication.

1.0 Summary

- 1.1 This report requests authority to award a number of separate contracts for the design and build of school expansions at Byron Court Primary School, Elsley Primary School, The Stonebridge Primary School and Uxendon Manor Primary School as required by Contract Standing Order No 88. This report summarises the processes undertaken in tendering these contracts and, following the completion of the evaluation of the tenders, recommends to whom the contracts should be awarded.

2.0 Recommendations

- 2.1 Cabinet is recommended to:

2.1.1 Byron Court Primary School

- 2.1.1.1 Delegate authority to make the final decision to award the two stage design and build contract for the expansion of Byron Court Primary School to Morgan Sindall Group to the Strategic Director of Regeneration and Environment in consultation with the Chief Legal Officer and Chief Finance Officer following successful completion of all associated matters including planning approval. The first stage of the contract (Preconstruction Services Agreement) to commence following award.

- 2.1.1.2 Delegate authority to trigger the entry into the stage two main works contract to the Strategic Director of Regeneration and Environment in consultation with the Chief Legal Officer and Chief Finance Officer following successful conclusion of the Pre Construction Services Agreement.
- 2.1.2 Elsley Primary School
 - 2.1.2.1 Subject to planning approval detailed in paragraph 3.4 and table 2, award the two stage design and build contract for the expansion of Elsley Primary School to Lakehouse Contracts Ltd with the first stage of the contract (Preconstruction Services Agreement) to commence following award.
 - 2.1.2.2 Subject to planning approval detailed in paragraph 3.4 and table 2, award the fixed cost lump sum works contract (contract 1) to Lakehouse Contracts Ltd
 - 2.1.2.3 Delegate authority to trigger entry into the stage two main works contract to the Strategic Director of Regeneration and Environment in consultation with the Chief Legal Officer and Chief Finance Officer following successful conclusion of the Preconstruction Services Agreement.
- 2.1.3 The Stonebridge Primary School
 - 2.1.3.1 Subject to planning approval detailed in paragraph 3.4 and table 2, award the two stage design and build contract for the expansion of The Stonebridge Primary School to Morgan Sindall Group with the first stage of the contract (Preconstruction Services Agreement) to commence following award.
 - 2.1.3.2 Delegate authority to trigger entry into the stage two main works contract to the Strategic Director of Regeneration and Environment in consultation with the Chief Legal Officer and Chief Finance Officer following successful conclusion of the Preconstruction Services Agreement.
- 2.1.4 Uxendon Manor Primary School
 - 2.1.4.1 Award the two stage design and build contract for the expansion of Uxendon Manor Primary School to Morgan Sindall Group with the first stage of the contract (Preconstruction Services Agreement) to commence following award.
 - 2.1.4.2 Delegate authority to trigger entry into the stage two main works contract to the Strategic Director of Regeneration and Environment in consultation with the Chief Legal Officer and Chief Finance Officer following successful conclusion of the Preconstruction Services Agreement.

3.0 Detail

Background

- 3.1 In August 2012 Members approved a four year rolling School Expansion Programme Portfolio to address the demand for primary school places up to 2016-17. Officers have developed those plans, reporting to Members on various occasions. In October 2014 a School Place Planning Strategy was approved and subsequently updated in a report to Cabinet in November 2015. These reports have established the requirement for additional school places.
- 3.2 Projects within that overall Portfolio were formally allocated to Programmes of expansion. The Phase Three Permanent Primary School Expansion Programme was approved by Cabinet in January 2015 and this report focusses on the following projects from this phase.

	No. of additional places	Equivalent Forms of Entry (FE)	Total FE on completion
Byron Court Primary	420	2	5
Elsley Primary	420	2	4
The Stonebridge Primary	210	1	3
Uxendon Manor Primary	420	2	4
Total number of places	1,470	7	

Table 1 – Phase 3 Permanent Primary School Expansions that this report covers

- 3.3 Statutory consultation was completed as part of the expansion projects at Byron Court Primary School, Elsley Primary School, The Stonebridge Primary School and Uxendon Manor Primary School. Cabinet approved the permanent expansions (subject to planning approval being obtained) on 16 March 2015, 24 August 2015, 1 June 2015 and 24 August 2015, respectively.
- 3.4 Planning permission has been sought for each school. At the time of drafting this report decisions are expected at the following Planning Committee meetings:

School	Planning Committee Meeting Date
Byron Court Primary School	9 March 2016
Elsley Primary School	6 April 2016
The Stonebridge Primary School	6 April 2016
Uxendon Manor Primary School	9 March 2016

Table 2 – Planning Committee Dates

A decision to approve the applications for both Byron Court and Uxendon Manor was made by Planning Committee on 9 March 2016. At the time of drafting, the planning decision notice for Byron Court could not be issued due to a request for the Secretary of State to consider calling in the planning committee decision. This call-in decision is expected to be made before the date of the Cabinet meeting. Delegation to the Strategic Director of Regeneration and Environment in consultation with the Chief Legal Officer and Chief

Finance Officer to award the contract for Byron Court is sought in order to address any call in issues.

3.5 Table 3 below provides a synopsis of the work that each expansion project includes. Subject to Cabinet awarding the contracts as recommended, the Pre Construction Services Agreement (PCSA) periods are expected to last 16 weeks and the construction works to take 12 months. Therefore, each expansion is anticipated to complete ready for the 2017-18 academic year.

School	Project Synopsis
Byron Court Primary School	<ul style="list-style-type: none"> • Demolition of the existing dining hall, kitchen and three single storey classroom blocks to make way for the 2FE expansion. • The new block will be a two-storey modular block hosting 20 classrooms, group rooms, reception rooms and a staff room linked at ground floor to a new hall and kitchen. • External works will be provided including a new MUGA, additional car parking and an extension to the existing to the existing hard and soft play areas.
Elsley Primary School	<ul style="list-style-type: none"> • Contract 1 (fixed cost lump sum) provides four temporary classrooms, a MUGA and new fencing • Construct a new two storey classroom block linked to the main school building and associated external landscaping works
The Stonebridge Primary School	<ul style="list-style-type: none"> • Construct a new access road, demolition works, site set up and enabling works for contract 2. • A new two storey classroom block with multi purpose hall, re-modelling and renovation of the existing building most significantly the installation of a new lift and stair core • Link bridge and external works including demolition of one of the detached school buildings
Uxendon Manor Primary School	<ul style="list-style-type: none"> • Construction of a new single-storey, four classroom block • Demolition of existing buildings on site to make way for construction

	of new buildings including a new multi purpose hall and two storey, 16 classroom extension as well as landscaping, internal remodelling and removal of temporary decant accommodation
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Table 3 – Synopsis of expansion

- 3.6 Cabinet approved the Phase Three Permanent Primary School Expansion procurement methodology in September 2014. This report detailed the two-stage design and build process to be used. This is a different procurement approach to that used in previous school expansions programmes.
- 3.7 This two stage approach is a variant of the traditional design and build model. The first stage, known as the Pre Construction Services Agreement (PCSA), is based on a cost made up of the contractor’s preliminaries, over-heads and profits, design and survey costs and any other pre-construction works that are specified. In this stage the appointed contractor works alongside the Council and school to develop the designs and tenders work packages to its sub contractor supply chain. The resulting cost triggers stage two (construction or works) and transfers the risk and responsibility to the contractor.
- 3.8 The contractor is appointed for both stages at stage one but there is no obligation on the Council to accept the price of the works contract at stage 2. The forming of tender packages and subsequent tender returns is carried out under an open-book approach so the Council is able to observe how the appointed contractor is forming their stage two costs before accepting them. This allows the contractor to get a fuller understanding of the client’s requirements compared to a single stage design and build contract. If the stage two price is not acceptable, the Council has the option not to trigger stage two and allow the contractor to return with a more agreeable cost. Alternatively, the Council could not trigger stage two and re-start the tendering process.
- 3.9 Elsley Primary School also includes a fixed cost lump sum (single stage design and build contract) contract. This delivers temporary accommodation to allow for the remodeling works within the existing school building.

The tender process

- 3.10 The new contracts will be let using 2011 JCT Pre Construction Services Agreement for the PCSA periods for 16 weeks and the stage 2 contracts and the Elsley Primary School fixed cost contract will be let using the 2011 JCT Design and Build Contract with client amendments. The Design and Build contracts will be for 24 months (12 months construction and 12 months defect liability period).

3.11 The tender process was carried out in accordance with the pre-tender considerations approved by Cabinet in September 2014. Advertisements were placed in the Official Journal of the European Community (OJEU) and on Contracts Finder for all contracts. Contractors were provided with an outline specification and details of the tender approach and were invited to complete shortlisting questionnaires (PQQ) using the Council's Electronic Tendering Facility. Table four below details the dates the OJEU notices were issued, the number of elicited initial enquiries and the subsequent number of contractors who completed and submitted the PQQ for each opportunity. Each contract opportunity was tendered separately and evaluated separately by the panel.

School	OJEU Notice Date	Number of expressions of interest elicited	Number of contractors who completed and submitted PQQ
Byron Court Primary School	19 August 2015	63	10
Elsley Primary School	3 December 2015	35	10
The Stonebridge Primary School	23 October 2015	61	15
Uxendon Manor Primary School	26 October 2015	57	13

Table 4 – OJEU notice date, Expressions of Interest, Completed PQQs

3.12 PQQ shortlisting was carried out on the basis of the contractors' financial viability, Health & Safety viability, Equality viability, Environmental viability and technical ability. This allowed shortlists of contractors to be invited to tender, to be agreed. Table five details the date the invitations to tender (ITT) were issued and to the number of contractors the invitations were issued to.

School	Date ITT issued	Number of contractors issued to
Byron Court Primary School	28 October 2015	5
Elsley Primary School	19 January 2016	6
The Stonebridge Primary School	20 January 2015	6
Uxendon Manor Primary School	18 December 2015	5

Table 5 – ITT issue date and contractors invited to tender

3.13 The tendering instructions stated that the contracts 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:

- Price (50%)
- Quality assessment (50%)
 - Project and Cost Management
 - Construction Programme
 - Project Understanding and Client Liaison
 - Quality
 - Health and Safety
 - Innovation
 - Sustainability (including Social Value)

3.14 Tenderers were required to submit additional information providing details of their proposed arrangements for performing the contract including (but not limited to) the following:

- Employment and Skills Plan
- Contract Programme
- Resources/employees to be used to deliver the contract

Evaluation process

3.15 The tender evaluation was carried out by a panel of officers from the Council’s Capital Programme Team (Regeneration and Environment). Also in attendance were representatives from the project consultant teams; Curl La Tourelle + Head Architects, South Studio Architects, Capita Property and Infrastructure (Project Managers/Employers Agent) and Mott MacDonald (Cost Consultants).

3.16 All tenders had to be submitted electronically and Table 6 below details the date tenders were due, the date opened and the number of valid tenders received for each opportunity. Each member of the evaluation panel read the tenders and used evaluation sheets to note down their comments on how well each of the award criteria was addressed, in accordance with the published evaluation matrix.

School	Date Tenders were due	Date Tenders were opened	Number of tenders received
Byron Court Primary School	26 November 2015	26 November 2015	4
Elsley Primary School	15 February 2016	15 February 2016	6
The Stonebridge Primary School	15 February 2016	15 February 2016	3

Uxendon Manor Primary School	25 January 2016	25 January 2016	4
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Table 6 – Tender due dates, opening dates and number of valid tenders received

3.17 The panels for each tender opportunity met and each quality submission was marked by the whole panel against the quality award criteria. Interviews were held with each bidder to clarify aspects of the bidders submitted tenders. The interviews were not scored but formed a part of the evaluation process and provided clarification, as necessary, arising from the tenders. The evaluation panels then met after the interviews to finalise the quality scoring for each opportunity. The dates for the tender evaluation meetings and interviews are listed in Table 7 below.

School	Date of initial tender scoring evaluation	Date of bidder interviews	Date of final tender scoring evaluation
Byron Court Primary School	2 December 2015	8 December 2015	15 December 2015
Elsley Primary School	19 February 2016	26 February 2016	26 February 2016
The Stonebridge Primary School	18 February 2016	25 February 2016	25 February 2016
Uxendon Manor Primary School	5 February 2016	11 February 2016	11 February 2016

Table 7 – Tender Evaluation Panel and interview dates

3.18 Brent's appointed Cost Consultants (Mott MacDonald) undertook a detailed evaluation of pricing submissions. This review process included checking for any formulaic or mathematical errors and issuing queries to each contractor to clarify any qualifications or exclusions in order to 'normalise' the tenders and to ensure a compliant bid was achieved. This process is necessary in order to score the tenders on a like-for-like basis and ensure that no contractor had excluded an item of work which would provide an advantage in terms of financial scoring.

3.19 The names of the tenderers are contained in Appendix 1. The scores received by the tenderers are included in Appendix 2. Table 8 below details the highest scoring tenderer for each opportunity as identified by their letter from Appendix 1 and their name in order to detail who to award the contracts to.

School	Highest Scoring Tenderer	Corresponding Appendix 1 letter
Byron Court Primary School	Morgan Sindall Group	BC Contractor D

Elsley Primary School	Lakehouse Contracts Ltd	EL Contractor D
The Stonebridge Primary School	Morgan Sindall Group	SB Contractor C
Uxendon Manor Primary School	Morgan Sindall Group	UM Contractor D

Table 8 – Highest Scoring Tenderers

3.20 The earliest the contracts will commence will be on 25 April 2016 following the Council's observation of the requirements of the mandatory standstill period noted in paragraph 5.6 below. Some of the proposed contracts are subject to grant of planning permission and other associated matters and these contracts will therefore only commence after successful resolution of such matters.

4.0 Financial Implications

4.1 The Council's Contract Standing Orders state that works contracts exceeding £500k shall be referred to the Cabinet for approval of the award of the contract.

4.2 The estimated values of the contracts are over this threshold across the length of the contracts (see Table 9). Please note the total values in Appendix 2 include the normalisation process detailed in paragraph 3.19. The values in table 9 below are the tendered prices with amendments due to errors and qualifications as per paragraph 3.18.

School	Highest Scoring Tenderer PCSA Value	Highest Scoring Tenderer Tendered Contract 1 Value	Highest Scoring Tenderer Tendered Stage 2 Value	Highest Scoring Tenderer Total Value
Byron Court Primary School	£232,197.75	n/a	£9,233,600.40	£9,465,798.15
Elsley Primary School	£260,977.50	£413,988.74	£6,724,444.60	£7,399,410.84
The Stonebridge Primary School	£168,638.13	n/a	£6,422,030.26	£6,590,668.39
Uxendon Manor Primary School	£120,392.40	n/a	£7,762,492.74	£7,882,885.14

Table 9 – Values of contracts and construction budgets

- 4.3 As described in paragraphs 3.6 – 3.8, the two stage design and build contract allows the contractor to build up their cost for stage 2 (the works) and it is possible the cost may change compared to the tendered stage 2 values. However, the process is open book so officers and Brent's appointed consultancy team can monitor the progress, review value for money and ensure the stage 2 costs come in as close to the tendered values as possible.
- 4.4 The value of submitted tenders proposed for approval are within budget allocations as submitted to Cabinet and Full Council as part of the 2016/17 Budget Setting report.
- 4.5 The financial standing of the recommended tenderers was considered during the PQQ element of the process and were found to be satisfactory in relation to forecast contract value.

5.0 Legal Implications

- 5.1 The value of the contracts over the contract's lifetime is higher than the EU threshold for Works and the award of the contracts therefore is governed by the Public Procurement Regulations 2015 (the "EU Regulations"). The awards are subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations.
- 5.2 Contract Standing Order 88 requires Cabinet to approve award of High Value contracts. Therefore, Cabinet is requested to approve the award of the two stage design and build contract for all schools to the highest scoring tenderers listed in Table 8 for the values in Table 9.
- 5.3 The council is proposing to use a two stage award process. EU law prevents the Council from holding negotiations with tenderers on price or other aspects of bids prior to award of the contracts. To ensure compliance with EU law, the Council must therefore award contracts in respect of both stages of the project at Stage 1 in order to be able to discuss design and price changes in detail and agree a final Contract Sum with one tenderer in respect of each contract. Following agreement or determination of a satisfactory Contract Sum during Stage 1 of each project, the Council may, at its discretion, trigger Stage 2 (the main construction phase) by giving the contractor notice that it is required to enter into the main contract.
- 5.4 Officers are seeking delegated authority from Members to the Strategic Director of Regeneration and Environment in consultation with the Chief Finance Officer and the Chief Legal Officer to enter into the stage 2 works contracts. If the Council decides for financial or good other reason not to proceed to the construction phase with the contractor, the parties' relationship will come to an end in accordance with the

provisions of the initial appointment and the main contract will not come into effect.

- 5.5 Should Members be minded to approve the delegation to the Strategic Director of Regeneration and Environment in consultation with the Chief Finance officer and Chief Legal Officer to enter into the proposed stage 2 works contracts as stated in the recommendations of this report, then Officers are advised to publish the delegated authority decision by way of a report on the Council's website as an officer decision. This will also apply to the decision to award the contract for both stages for Byron Court.
- 5.6 As advised in the Cabinet Report requesting authority to tender this contract dated 15 September 2014, the Council must observe the EU Regulations relating to the observation of a mandatory minimum 10 calendar day standstill period before the contract can be awarded. Therefore once the Cabinet has determined which tenderer should be awarded the contract, all tenderers will be issued with written notification of the contract award decision. A minimum 10 calendar day standstill period will then be observed before the contract is concluded – this period will begin the day after all Tenderers are sent notification of the award decision – and additional debrief information will be provided to unsuccessful tenderers in accordance with the EU Regulations. As soon as possible after the standstill period ends, the successful tenderer will be issued with a letter of acceptance and the contract can commence.
- 5.7 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 of the population in its area. The local authority must promote high educational standards, ensuring 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.

6.0 Diversity Implications

- 6.1 Members are referred to the Equalities Impact Assessment from previous Cabinet reports as detailed in Table 10 below.

School	Cabinet Meeting date	Item	Appendix
Byron Court Primary School	16 March 2015	7	Included in background papers
Elsley Primary	24 August 2015	5	13

School			
The Stonebridge Primary School	1 June 2015	12	8
Uxendon Manor Primary School	24 August 2015	5	4

Table 10 – Equality Impact Assessments

6.2 The proposal for expansions at the Primary Schools are of a number of schools proposed within the Phase 3 Expansion Programme 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 proposed expansions will enable the school to be used safely and easily by children with a wider range of needs.

7.0 Staffing/Accommodation Implications (if appropriate)

7.1 There are no staffing implications for Council staff as a result of these decisions however there are likely to be additional job and career opportunities for staff at the schools as a result of the additional pupils.

8.0 Public Services (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 how the contract might improve the economic, social and environmental wellbeing of the borough.

8.2 Tenderers have been asked to submit Employment Skills Plans and these identify how the tenderers will use the expansion contracts to provide opportunities for local sub contractors and local people to gain experience and employment in the construction industry. Examples of actions within the plans include hosting open events to invite local suppliers to join the main tenderer’s supply chain to bid for packages of works and working with local employment agencies and partners to provide employment opportunities and training to local residents and pupils.

10.0 Background Papers

10.1 School Place Planning Strategy – November 2015

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