

Notice of Key Executive Decision (Waiver)

Subject Heading:	Authorisation to award a contract to Breyer Group PLC for roof replacements at Mead Primary, Towers Infant and Juniors, Scotts Primary. Rainham Village Primary, Newtons Primary. Nelmes Primary, Langtons Infants, Gidea Park Primary, Engayne Primary, Crownfield Infants
Cabinet Member:	Councillor Robert Benham – Cabinet Member for Education, Children’s and Families and Deputy Leader of the Council
SLT Lead:	Robert South– Director of Children’s Services
Report Author and contact details:	Gary Moreland – Schools Asset Manager Technical Services Telephone: 01708 431718 Email: gary.moreland@onesource.co.uk
Policy context:	Supports educational outcomes within the broader opportunities context of the Havering Vision
Financial summary:	The Council has set aside an approved budget of £1,390,000 for roof replacements at the above schools from the schools and education conditions budget.
Reason decision is Key	Expenditure or saving (including anticipated income) of £500,000 or more.
Relevant OSC:	Children & Learning Overview and Scrutiny Committee
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

- Communities making Havering
- Places making Havering
- Opportunities making Havering
- Connections making Havering

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Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

That the Cabinet Member for Education, Children's and Families and Deputy Leader of the Council approves an exception to the use of constructionline to draw up the select tender list, in favour of the use of the LHC Flat Roofing (FR2) Framework Agreement, by way of a waiver of the Contracts Procedure Rules (CPR) set out in Part 4 of this constitution, in accordance with Rule 14(1) of the CPR.

That the Director of Children's Services approved the award a construction contract to Breyer Group PLC in the sum of £1,77,870.08 to replace a number of existing flat roofs to various school locations as set out in the body of this report.

AUTHORITY UNDER WHICH DECISION IS MADE

Paragraph 3.3(a) of the London Borough of Havering Constitution (Powers of Members of the Senior Leadership Team), (Contract Powers) authorising members of the SLT to approve commencement of a tendering process for all contracts above a total contract value £500,000.

Constitution. 2.5(g) Powers of Cabinet Members and the Leader.

To approve an exception to the Contracts Procedure Rules set out in Part 4 of this constitution, in accordance with Rule 14(1) of those Rules

STATEMENT OF THE REASONS FOR THE DECISION

The Council receives an annual DfE maintenance grant which is ring-fenced to expenditure on maintenance priorities within the schools portfolio. The 2021/22 grant is in the sum of £ 2,643,959 and was referenced within the budget setting report approved by Cabinet/ Council on 3 March 2021: <https://democracy.havering.gov.uk/ieDecisionDetails.aspx?ID=5985>.

The existing flat roof areas to Mead Primary, Towers Infant and Juniors, Scotts Primary. Rainham Village Primary, Newtons Primary. Nelmes Primary, Langtons Infants, Gidea Park Primary, Engayne Primary, Crownfield Infants have been surveyed and it has been established that they are beyond their service life and require replacement.

These works have been tendered via the LHC Flat Roofing (FR2) Framework Agreement. This approach has been agreed with Strategic Procurement Unit using a JCT Design and Build Contract 2016 (DB). It is proposed that these works will be completed by the end of 2021/22 financial year.

OTHER OPTIONS CONSIDERED AND REJECTED

The option to tender the works via construction line was considered but was rejected as there was a suitable established framework agreement available and it was considered better value for money to adopt the chosen procurement route.

Procurement

An expression of interest was sent to all contractors on the LHC framework and 3 contractors responded and were invited to tender on the basis of a JCT Design and Build Contract 2016

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with amendments. 3 contractors returned tenders however one contractor latterly chose to withdraw their tender submission. The remaining 2 contractors have been assessed on a quality/cost basis as follows:

	Cost (£)	Quality	Cost	Total
Breyer Group PLC	1,177,870.08	87	100	92.85
Contractor B	1,212,576.00	80	97	87.7

The tender submitted by Breyer Group PLC is considered competitive and bona fide and is therefore recommended for approval.

PRE-DECISION CONSULTATION

Consultation has taken place with the schools and corporate procurement team.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Gary Moreland

Designation: Schools Asset Manager



Signature:

Date: 02/06/2021

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Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

1. The Council is a local authority and a best value authority with duties and powers to make arrangements to secure continuous improvement in the way it exercises its functions, pursuant to Part I of the Local Government Act 1999. The Council has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do, including the matters set out in this report.
2. Under the Contract Procedure Rules (CPR) 14.1, an individual Cabinet member may, using an Executive Decision, approve an exception to the CPR. Authority to waive the provisions contained in CPR 14 will only be permissible if it does not infringe EU or National legislation and is subject to the Council's Scheme of Delegation.
3. Under paragraph 3.3 (Powers of Members of Senior Leadership Team) of Part 3 (Responsibility for Functions) of the Council's Constitution, members of the Senior Leadership Team (SLT) Director have delegated authority to approve the award all contracts with a total contract value of between £500,000 and £5,000,000.
4. The proposed contract value is under the EU threshold for works contracts (currently £4,551,413) and accordingly is not subject to the full rigours of the Public Contracts Regulations (PCR) 2015. Officers intend to award the (call-off) contract from an OJEU compliant framework, under which the Council is part of an identifiable group cited in the published contract notice, and which fully satisfies the requirements of the public procurement rules.
5. Furthermore, the Local Government Act 1999, requires the Council to make arrangements to achieve best value in the exercise of its functions, which includes the works contained in the proposed procurement. While conducting the procurement and evaluating the bids, officers have satisfied themselves the procurement process was in accordance with this principal.
6. Upon award, the contract will incorporate the JCT Single Stage Design and Build Contract 2016. The contract must be sealed in accordance with CPR 17.1.

FINANCIAL IMPLICATIONS AND RISKS

Breakdown of costs

Works (Contract award)	£1,177,879.08
Fees, charges and surveys	£94,230.32
Contingency	£58,893.95
Total Costs	£1,331,003.35

The following items have approved funding within the capital programme:

C38570	Mead	£70,000
C38450	Towers J	£200,000
C38440	Towers I	£40,000
C38430	Scotts	£120,000
C38420	Rainham Village	£120,000

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C38410	Newtons	£150,000
C38390	Langtons Infant	£45,000
C38380	Gidea Park	£15,000
C38370	Engayne	£120,000
C38360	Crownfield	£60,000
C38400	Nelmes	£150,000
C25490	Unallocated *	£300,000

Total funding £1,390,000

As with most capital schemes, there is a risk that the scheme could overspend due to issues arising during the build process, however given the size of the works, and previous experience of the contractor any significant overspend is unlikely. Any small issues arising can be funded from the contingency set aside from the unallocated funds* budget to top up respective codes as is usual for this works programme.

As with all contracts there is a risk to contractor delivery/continued operation. However the contractor selection process will partly mitigate this risk, along with careful project management.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no implications associated with this decision.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

These proposals do not have any equalities and social impact implications and risks.

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

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HEALTH AND WELLBEING IMPLICATIONS AND RISKS

There are no implications associated with this decision.

BACKGROUND PAPERS

None

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed:

Name: Robert South
Director of Children's Services

Date:

Signed: 

Name: **Councillor Robert Benham**
Cabinet Member for Education, Children's and Families and
Deputy Leader of the Council

Date: **1st July 2021**

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____