

## Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix A is not available for public inspection as it contains exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to information relating to financial or business affairs of a particular person (including the authority holding that information) and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

<b>Subject Heading:</b>	Authority to award a contract for the construction of a new designated SEND unit for pupils with Communication and Interaction needs at St Edward's Church of England Voluntary Aided Primary School (St Edward's)
<b>Decision Maker:</b>	Robert South – Director of Children's Services
<b>Cabinet Member:</b>	Councillor Robert Benham – Cabinet Member for Education, Children's and Families and Deputy Leader of the Council
<b>SLT Lead:</b>	Robert South – Director of Children's Services
<b>Report Author and contact details:</b>	Ian Saxby – Head of Technical Services Telephone: 01708 433529 Email: ian.saxby@onesource.co.uk
<b>Policy context:</b>	Supports educational outcomes within the broader opportunities context of the Havering Vision
<b>Financial summary:</b>	This report seeks authorisation to award a construction contract in the sum of £1,186,712.61. Further details are provided in the body of the report.
<b>Reason decision is Key</b>	Expenditure or saving (including anticipated income) of £500,000 or more.
<b>Date notice given of intended decision:</b>	7 <sup>th</sup> April 2022
<b>Relevant OSC:</b>	Children & Learning Overview and Scrutiny Committee
<b>Is it an urgent decision?</b>	No
<b>Is this decision exempt from being called-in?</b>	No

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

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

**Part A – Report seeking decision**

**DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

To agree to award a contract for the design and build of a new SEND Unit at St Edward's Church of England Voluntary Aided Primary School (St Edward's), to Valuegrade Ltd at a value of £1,186,712.61, with an estimated commencement date in August 2022. The contract length is anticipated to be 40 weeks.

**AUTHORITY UNDER WHICH DECISION IS MADE**

**Part 3 of the Council's Constitution**

**3.3 Powers of Members of the Senior Leadership Team**

Members of the Senior Leadership Team (SLT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1.

**Contract powers**

(b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract procedure Rule 16.3.

**STATEMENT OF THE REASONS FOR THE DECISION**

The purpose of the contract which is subject to this decision is to provide a single storey teaching pavilion (ARP), with associated services and landscaping works. The proposed form of contract is going to be the JCT Design & Build Contract 2016 with the Council's Supplemental Amendments.

Approval to commence tender was given on 14<sup>th</sup> December 2021.

Since the Executive Decision to approve this procurement route, a tender exercise has been carried out based on a JCT Design and Build contract through the Fusion portal. In line with the Council's Contract Procedure Rules (CPR), a list of tenderers was sought from Constructionline, and six suppliers were invited to submit bids. The construction market remains highly competitive at this point in time.

During the tender exercise six contractors were invited to tender and four returned a priced offer. Two bidders declined to tender due to ongoing work commitments. The quality of the bids in the tender was satisfactory. Further details of the tender process (including the price and scoring information) are set out in exempt **Appendix A**, attached to this report. As a result it is proposed to appoint the contractor with the highest scoring compliant bid to undertake the works, namely Valuegrade Ltd.

**OTHER OPTIONS CONSIDERED AND REJECTED**

Pupils with complex SEN could also be educated within special schools. Expansion of existing special schools is not feasible due to space constraints. A new special school will be opened but not until 2023 and as such is not an option in the short term.

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The Council is therefore looking to increasing capacity within its existing resources and is focusing on developing new provision within its own schools. It is therefore proposing to create a number of designated SEND units in the mainstream, particularly in the areas where there are shortages of provision.

**PRE-DECISION CONSULTATION**

Consultation has taken place with a number of relevant key stakeholders. In addition to this, there has been engagement with the finance, legal and the Strategic Procurement units. Local residents were also consulted via the Planning Process (Planning permission granted 6<sup>th</sup> October 2021, reference P1237.21) and members were invited to approve the scheme as part of the Cabinet / Full Council process.

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

Name: Ian Saxby

Designation: Head of Technical Services

Signature:



Date: 7<sup>th</sup> April 2022

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

- Local Authorities should have regard to sections 13, 13A and 14 of the Education Act 1996 which require local authorities to ensure efficient primary, secondary and further education are available to meet the needs of the population of their area.
- The Council has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do. The contract may be awarded in accordance with these powers.
- 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) have delegated authority to award contracts with a contract value between £500,000 and £5,000,000.
- The value of the contract (£1.2 million) is below the applicable works contract threshold stipulated in the Public Contracts Regulations 2015 ("PCR") of £5,336,937 (including VAT). Therefore this contract is not subject to the full PCR regime. However the procurement must still comply with the Council's Contract Procedure Rules which requires the Council to use Constructionline to invite at least 7 organisations to tender.
- Officers had invited 7 organisations to tender, however one of the organisations failed to register on Fusion, therefore only six organisations were invited to submit bids. 4 bids were received. This was approved by the Head of Procurement as required by CPRs 10.8 and 13.4.

### FINANCIAL IMPLICATIONS AND RISKS

#### Estimated Project Costs & Source of Funding

##### Project Costs

Contract Sum (to be Awarded under this ED)	£ 1,186,712.61
<i>Project Contingency (within contract sum)</i>	<i>(£ 120,000.00)</i>
FF&E (Including ICT)	£ 30,000.00
Fees (Including Planning Fees, Tech. Services, Surveys etc)	£ 118,671.00

**Total Project Cost £1,335,383.61**

##### Project Funding

SEND Capital Allocation Budget Code C39180	<b>£ 1,335,383.61</b>
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It is envisaged that this scheme will be funded from the rec SEND Capital Allocation 2021/22 of £2,206,149.

##### Risks

As with most capital schemes, there is a risk that the scheme could overspend due to issues arising during the build process, this risk is mitigated via a contract administration procedure

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as set out within the JCT Design and Build 2016 (with Amendments) that provides constant monitoring and final cost forecasting which will be fed into corporate monthly monitoring processes. Any issues arising can be funded from the client contingency sum and escalated via the aforementioned corporate monthly monitoring processes if they are at risk of exceeding the contingency sum.

There exists a risk of delays as with any major building project, but this will be mitigated by a scrutinised critical path programme issued to the Contract Administrator and all the shareholders and reviewed against the on-site progress at four weekly and ad hoc meetings.

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

### **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**

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, and 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.

An EqHIA (Equality and Health Impact Assessment) is usually carried out when a current or planned service/policy/activity is likely to affect staff, service users, or other residents. It is acknowledged that in emergency or urgent situations it will not always be possible to carry out an EqHIA in advance of a relevant activity, however, managers will undertake the required EqHIAs at the earliest opportunity. Where managers are already clear that protected groups/users will be impacted negatively by the intended activity, then this will be noted in the next paragraph and/or put into EqHIAs. Where the negative impact of the intended activity can be mitigated, this too should be set out in this report and/or the EqHIA.

In all situations, urgent or not, the Council will seek to ensure equality, inclusion, and dignity for all. As required during the School Expansion Statutory Process the Schools Organisation and Place Planning team, with advice from the Corporate Policy & Diversity Team, has carried out a consultation and an EIA which has outlined how all the protected characteristics shall be influenced either positively or neutrally by the proposed school expansion programme. Any recommendations arising from the consultation and the EIA have been included within the

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project subject of the present ED. Therefore no further EIA is carried out for the purposes of the present ED.

### **HEALTH AND WELLBEING IMPLICATIONS AND RISKS**

The new ARP block with its classrooms, ancillary spaces and external areas will provide significantly better facilities for the SEN pupils and relevant staff. This will positively impact the school experience for these pupils by improved quality of the learning environment. There will be a change to the levels of staffing as the number of pupils will increase.

The construction of the extension has been planned such that the children will be impacted as little as possible by the noise. This is fully considered within the contractor's programme. In addition, the intention of this building is to provide a calm and healthy environment for the end users for which the innate biological connection with nature is essential if not critical. The very external and internal spaces intend to implement biophilic feelings (visual/tactile connection) and design pattern through the use of natural materials and the implementation of design features such as the concept of refuge (escape space, sensory room, soft play room, sensory garden).

Construction traffic and general noise mitigation has been considered within the planning application and the appointed contractor will strictly adhere to these requirements.

### **ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

#### *In general*

The project subject of this relates to improving building efficiency within the educational asset portfolio and delivers a modern and efficient facility which is substantially more efficient and more environmentally friendly than the rest of the educational portfolio.

The following sections outline the environmental and climate change considerations that have been addressed as part of the building design and procurement of the construction contract which is subject to the present report. This has been divided into design considerations and contractor selection considerations.

#### *Design element*

The design was carried out by professional architects, who recognise, as the Royal Institute of British Architects has declared, that the climate emergency is the most pressing professional challenge of this generation, and that it should receive proportionate attention and care.

Designs have been carried out following the latest and most up to date tools and advices arising from the RIBA, the BRE, the Ministry of Housing, Communities and Local Government (now the Department for Levelling up) and other professional and advisory bodies.

The impact of carbon emissions has been considered as part of the design. Designers of this building are fully aware that the built environment is responsible for a large part of the carbon emissions in Great Britain. Current figures estimate that 47% of carbon emissions arise from the built portfolio. This includes space heating and electricity. The design proposed seeks to reduce space heating related carbon emissions by improving the fabric of the building; by reducing dissipation of heating, we minimise the need for fuel to heat spaces. Furthermore, this educational design has been carried out with particular attention to natural lighting and ventilation. This has the effect of minimising energy spent for artificial lighting and mechanical ventilation. Where artificial lighting is required, the design has privileged LED lighting which delivers an energy saving of around 75% and is designed to last up to 25 times longer than

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incandescent lighting. In light of the above, the targets of energy performance of the building fabric and of its services have been increased to 10% over the Building Regulations levels.

With a view to reduce the dependency of the building to fossil fuels and to reduce the ongoing costs of the service users, the designers have considered implementation of thermal and photovoltaic installations. In this scheme design, PV panels have been implemented which expands the school's current system.

In order to mitigate the adverse effects of climate change on the building that is being designed and on the business continuity of the service being delivered therein, designers have devoted time and attention to reducing direct summer sunshine into the building fabric, which would create a need for electrical/mechanical cooling.

Additionally, designers have noted that the risk of flash flooding has greatly increased, and is likely to increase further. Designs have been carried out, that focus on minimising the risk, not only of flood pressure being displaced to neighbouring areas, but also of damage and disruption of service to the building. Where practicable, floor levels have been raised and other flood resilience measures have been implemented, often above and beyond the statutory requirements.

With a view to improve local, urban and sub-urban biodiversity, the designers have supplemented, within the boundaries of the requirements of the service users, soft landscaping and planted areas adjacent to hard landscaped areas, such as concrete or tarmacked areas.

Additionally, in order to improve urban biodiversity, habitat for pollinators and water run-off slowing, green and living roof solutions were considered as part of the design and have been implemented.

#### *Procurement element*

As part of the tender exercise, tenderers were asked to produce their environmental credentials, and have been evaluated on this basis, along with other technical queries. In particular, tenders have been evaluated in relation to their response to waste management, energy and carbon footprint questions.

Contractors were asked to confirm what measures, above and beyond their contractual obligations, they propose to take in order to minimise the production of waste arising from operations, and how the remaining amount of waste will be recycled and disposed of.

Furthermore, contractors were asked to describe what measures, above and beyond their contractual obligations, they propose to take in order to minimise the use of fossil fuel energy in operations, and to generally decrease the carbon footprint of operations. Additionally contractors have provided details describing their process to calculate the organisation's carbon footprint and what concrete steps they have already taken in order to reduce this or offset the emissions produced by their business.

All tender responses have been evaluated carefully and the winning tenderer, which this ED proposes to award the contract to, has fully demonstrated their understating of all the issues under hand, and they have demonstrated proactive, above and beyond commitments and practical steps taken to improve their environmental policies and practices and to reduce site waste and operational carbon emissions.

Lastly, as part of the Council's commitment to go paper free, the tender exercise, which some years ago would have resulted in huge amounts of paper being produced, has been moved online and it is now a fully digitalised exercise.

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**BACKGROUND PAPERS**

None

**APPENDICIES**

**Appendix A**

tender scoring document

**Exempt from public inspection**

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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:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

**Lodging this notice**

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_