

Notice of KEY Executive Decision

Subject Heading:	Procurement for Construction of a SEND Unit at Bower Park Academy
Decision Maker:	Tara Geere
Cabinet Member:	Councillor Oscar Ford, Cabinet Member for Children’s Services
SLT Lead:	Tara Geere, Director Children’s Services
Report Author and contact details:	Paola Crivello
Policy context:	The local authority has a legal duty to meet the Special Educational Needs of those children for whom it is responsible. The needs of pupils who require <i>provision additional to or different from that generally available</i> is determined by a formal assessment pursuant to the Children and Families Act 2014.
Financial summary:	This report seeks authorisation to award a construction contract in the sum of £ 510,794.78 . Further details are provided in the body of the report.

Key Executive Decision

Reason decision is Key	a) This decision is Key as its expenditure is in excess of £500,000 b) Significant effect on two or more wards
Date notice given of intended decision:	10/03/2023
Relevant OSC:	People OSSC
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

People - Things that matter for residents X

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place.

Place an X as appropriate

Key Executive Decision

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 SEND Unit at Bower Park Academy, to Havering Building Specialists Ltd at a value of £ 510,794.78 with an estimated commencement date in July 2023. The contract length is anticipated to be 16 weeks.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 of the Council's Constitution

3.3 Powers of Members of the Senior Leadership Team

General powers

(a) To take any steps necessary for proper management and administration of allocated portfolios.

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 SEND Unit by internal alterations and refurbishment to existing Block D in the school to form the following areas: a heart space; two classrooms; a group room; two small group rooms; six new toilets and an accessible toilet and shower.

In addition to the above, some light-touch external works are planned, to provide external recreation areas, such as small canopies.

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 2nd February 2023.

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

During the tender exercise seven contractors were invited to tender and three returned a priced offer. Four bidders declined to tender due to ongoing work commitments. The quality of the bids in the tender was satisfactory. As a result it, is proposed to appoint the contractor with the highest scoring compliant bid to undertake the works, namely Havering Building Specialists Ltd.

OTHER OPTIONS CONSIDERED AND REJECTED

Key Executive Decision

Currently, there are not sufficient places for pupils with sensory impairments, These children will need to be educated out of the borough and doing nothing will resolve in the Council not providing the required education.

The Council is therefore looking to increase capacity within its existing resources and is focusing on developing new provisions 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

No formal consultation is required to make these arrangements although key stakeholders such as the school are kept apprised of the project.

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

Name: Paola Crivello

Designation: Architectural Officer

Signature: Paola Crivello

Date: 14.07.23

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 provision sought will be targeted to those identified with needs as assessed under Children and Families Act 2014.
- The Council has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do.
- Additionally, the Council has the power to procure the contract under Section 111 of the Local Government Act 1972 which, permits the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions
- The value of the contract (£510,794.78) 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 (CPRs) which requires the Council to use Constructionline to invite at least 7 organisations to tender. The tender procedure conforms with the CPRs.
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FINANCIAL IMPLICATIONS AND RISKS

Capital Implications

Estimated Project Costs & Source of Funding

Project Costs

Contract Sum (to be Awarded under this ED)	£ 510,794.78
Project Contingency (within contract sum)	(£ 48,000.00)
FF&E (Including ICT)	£ 63,000.00
Fees (Including Planning Fees, Tech. Services, Surveys etc.)	£ 62,000.00

Total Project Cost £ 635,794.78

Project Funding

SEND Capital Allocation Budget Code C26080	£ 636,000.00
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It is envisaged that this scheme will be funded from the rec SEND Capital Grant 2022/23 of £ 636,000.00.

Key Executive Decision

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 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.

The current programme shows that the SEND Unit is unlikely to be ready for the beginning of September and a delay of a few weeks is forecast. Therefore a contingency plan has been arranged in agreement with the School in place. There exists a risk of further 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 HR 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.

Key Executive Decision

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 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 newly refurbished Block D with its classrooms, ancillary spaces and external areas will provide significantly larger and better facilities for the pupils with SEN and relevant staff. This will positively impact the school experience for these pupils by the improvement of quality of the learning environment. There will be a change to the levels of staffing as the number of pupils will increase. Health and well-being will also be promoted, as individual support will be provided in a tailored way to cater for pupils with complex needs to help them learn and enjoy their education in the most inclusive environment possible.

The refurbishment of this existing block has been planned such that the pupils 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.

Construction traffic and general noise mitigation has been considered 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/viable 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.

Key Executive Decision

The impact of carbon emissions has been considered as part of the design. Designers of this refurbished 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 enhancing where possible the existing natural lighting and ventilation gained through the existing fenestration. 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 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.

Materials ratings, efficiency, durability and sourcing have been considered and specified in order to provide an effective environmental impact as well as the use, in the refurbished toilet areas and kitchenette, of performing sanitaryware in terms of water consumption.

Procurement element

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

Contractors will be 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 will be asked to confirm and 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 will need to provide 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 will be evaluated carefully and the successful tenderer will be asked to fully show their understating of all the issues under hand, and to demonstrate 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.

BACKGROUND PAPERS

None

APPENDICES

None

Key Executive Decision

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

Delete as applicable

Proposal NOT agreed because

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 _____