



**Havering**  
LONDON BOROUGH

## Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendices A and B are not available for public inspection as it contains or relates to 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 the contract for the essential repairs to the Upminster Tithe Barn
<b>Decision Maker:</b>	Neil Stubbings - Strategic Director of Place
<b>Cabinet Member:</b>	Cllr B Mugglestone – Cabinet Member for Environment
<b>ELT Lead:</b>	Neil Stubbings – Strategic Director of Place
<b>Report Author and contact details:</b>	Kathryn Skinner Architectural Officer <a href="mailto:Kathryn.skinner@havering.gov.uk">Kathryn.skinner@havering.gov.uk</a> 01708 433344
<b>Policy context:</b>	The Havering Vision Place Outcome – Havering is a Green Borough <ul style="list-style-type: none"><li>• Investing in our Parks</li><li>• Number of Parks with Green Flags</li></ul>
<b>Financial summary:</b>	The building works for the essential repairs to the Upminster Tithe Barn have now been tendered and the

## Key Executive Decision – Part Exempt Report

	successful supplier has returned a price of £0.69m. This is met by the majority of the grant received (£0.550m of the £0.650m received) from the Lower Thames Crossing Fund, accepted in Key Executive Decision published 11 <sup>th</sup> January 2024 with the remainder funded from the Corporate Landlord Building Pressures budget. This has been confirmed by the AD for Property and Assets
<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>	17 <sup>th</sup> July 2024
<b>Relevant Overview &amp; Scrutiny Committee:</b>	Places OSSC
<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**

People - Supporting our residents to stay safe and well

**Place - A great place to live, work and enjoy - X**

Resources - Enabling a resident-focused and resilient Council

## **Part A – Report seeking decision**

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

This report seeks approval from the Strategic Director of Place to award a contract for the essential restoration works to the Upminster Tithe Barn to Lexden Contracts Ltd at a value of £692,645, with an estimated commencement date in September 2024. The contract length is anticipated to be 22 weeks.

### **AUTHORITY UNDER WHICH DECISION IS MADE**

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

#### **Scheme 3.3.3 - Powers common to all Strategic Directors**

##### **1. General**

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

##### **4. Contracts**

4.2 To award all contracts with a total contract value of below £1,000,000 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 carry out the essential restoration work to the Upminster Tithe Barn, namely the rethatching and structural timber repairs. The proposed form of contract is going to be the JCT Intermediate Contract with Contractor Design 2016 with the Council's Supplemental Amendments.

Approval to commence tender was given on 29<sup>th</sup> April 2024.

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

During the tender exercise six contractors were invited to tender and three returned a priced offer. Two bidders declined to tender due to ongoing work commitments and one did not respond. One contractor was disqualified as they did not comply with the requirements of the tender (refer to Appendix B detailing the disqualification).

Of the two compliant tender responses, both were significantly over the funding available to the project. As a result, the decision was taken to re-evaluate the scope and obtain revised prices for a smaller scope from the two compliant bidders. The two lower tenders received were still over budget, but not in as significant level such that the gap in funding between the LTC funding and the construction value could be met by the Corporate Landlord Building Pressures budget.

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Otherwise, the quality level of the bids in the tender was satisfactory. Further details of the tender process (including the price and scoring information) are set out in **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 Lexden Contracts Ltd.

Post tender breakdown:

Tenderer	Quality (30%)	Price (70%)	Total score %	Ranking
Lexden Contracts Ltd	19.30	70.0	89.30	1st

### **OTHER OPTIONS CONSIDERED AND REJECTED**

Alternative options have been considered and rejected, as to do nothing would mean a loss of the Lower Thames Crossing funding, LBH would likely be served with an enforcement notice from Historic England, which would mean the works would need to be carried out using alternative funding which has not been secured in order to save the building.

### **PRE-DECISION CONSULTATION**

No formal consultation is required to make these arrangements although key stakeholders are kept apprised of the project. The Lower Thames Crossing Fund, as majority funders of the project, and Historic England who need to give permissions for the works (Scheduled Monument Consent) have also been advised regularly throughout the process. Scheduled Monument consent was granted in May 2024 subject to construction detailing pertaining to the works.

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

Name: Kathryn Skinner

Designation: Architectural Officer

Signature: K Skinner

Date: 31/07/2024

## **Part B - Assessment of implications and risks**

### **LEGAL IMPLICATIONS AND RISKS**

- The Council has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do, subject to statutory limitations. The contract may be procured in accordance with these powers.

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- 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 proposed contract value is below the threshold for works contracts of £5,372,609)and accordingly does not fall within the full rigours of the Public Contracts Regulations (as amended) 2015 (PCR). However, the contract must follow the Council's Contract Procedure Rules (CPR).
- For the reasons set out above, the Council may award the contract to Lexden Contracts Ltd

### **FINANCIAL IMPLICATIONS AND RISKS**

#### **Estimated Project Costs & Source of Funding**

##### **Project Costs**

Contract Sum (to be Awarded under this ED)	£ 692,645.26
<i>Project Contingency (included within contract sum)</i>	<i>(£ 62,968.66)</i>
Fees (Including Planning Fees, Tech. Services, Surveys etc)	£ 100,000.00
<b>Total Project Cost</b>	<b>£792,645.26</b>

##### **Project Funding**

Lower Thames Crossing Fund Grant Funding (C41620)	£ 650,000.00
Corporate Landlord Building Pressures (C42020)	£ 142,645.26
Total available funding:	<b>£ 792,645.26</b>

#### **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 Intermediate Contract with Contractor's Design 2016 (with Amendments) that provides constant monitoring and final cost forecasting. Any issues arising can be funded from the project contingency sum. Contingency of 10% is contained within the budget. This is to address the risk of capital programmes which is inherent to the nature of these sort of project.

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, our specialist consultants and all the stakeholders and reviewed against the on-site progress at four weekly and ad hoc meetings where required. It is understood by all parties that the funding agreement with the Lower Thames Crossing Fund that all monies forming part of the grant will need to be expended prior to the end of March 2025, therefore it is essential that all potential delays are mitigated at the earliest opportunities to avoid putting the funding at risk.

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)**

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

**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.

The contractors tendering were asked to provide their policies in relation to the above, in addition to they were asked to sign up to the LBH Jobs and Skills Charter.

At this time an EqHIA has not been carried out on this project, however will be in future phases.

**HEALTH AND WELLBEING IMPLICATIONS AND RISKS**

The specific works that are to be carried out under this contract will not impact the current access and egress arrangements. However, by the virtue that the rethatching and structural repairs will save a very important scheduled monument, this will have an impact to the assets in the Borough and the local community now and for future generations.

Construction traffic and general noise mitigation was been considered through the tender responses and the appointed contractor will strictly adhere to these requirements that they have set out. Therefore, there are no health and wellbeing impact of awarding the restoration contract.

**ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

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Due to the nature of the project, and the status of the building as a Scheduled Monument, the ability to improve the environmental impact is challenging. However, the replacement of the existing thatch itself will improve the fabric of the building, whilst conserving an important historical asset, both to LBH and the Country itself.

### *Procurement element*

As part of the tender exercise, tenderers were asked to produce their environmental credentials, and 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 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, in particular the large volume of thatch that will be removed from the building as part of the works.

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

All tender responses were evaluated carefully and the successful tenderer was asked to fully show their understating of all the issues, 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**

<b>Appendix A</b>	Tender scoring document	<b>Exempt</b>
<b>Appendix B</b>	Disqualification documentation	<b>Exempt</b>

**Key Executive Decision – Part Exempt Report**

**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 Committee Services, in the Town Hall.

**For use by Committee Administration**

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

Signed \_\_\_\_\_