

Delegated Authority Report

Portfolio Decision Of
Cabinet Member for Children's Services

Subject: The Swan Centre – Award of Contract and Expenditure – Refurbishment Works

Cabinet Member: Children's Services
Executive Director: Executive Director – People

Key Decision: KD 5461

Purpose of Report

1. This report seeks Cabinet Member authority to delegate the approval of the award of a refurbishment contract to the Executive Director - People for a project to carry out renovation and repairs works to The Swan Centre which will provide teaching and learning accommodation for 100 pupils with Complex Learning Needs.
2. Approves the budget increase for this project as detailed in the Restricted Appendix 'A'.

Proposal(s)

That the Cabinet Member for Children's Services

3. Delegates authority to the Executive Director - People to award and enter into the refurbishment contract following the return of compliant tenders for refurbishing and carrying out building repairs at The Swan Centre subject to this being within the target included in the Restricted Appendix 'A' of this report which is informed by the Pre-tender estimate for works.
4. Approves the increase of the budget based on the Pre- tender estimate detailed in the Restricted Appendix 'A' which will be managed within the School Capital Grant Allocation.

Reason for Proposal(s)

5. The key reasons for this recommendation are:

- a) Because of the volatility of the construction market contractors are not holding their tender prices for a period long enough to award the contracts before the offers expire. Ordinarily tenders would be expected to remain open for a period of 60 to 90 days.
- b) By delegating the approval to the Executive Director of People to award the construction contract, it allows the award to be made within the limited period of tender validity which may only be for 30 days.
- c) The refurbishment and reorganisation of the building will address serious condition issues and will ensure that the building complies with suitability and sufficiency guidance as set out by the Department for Education in their Building Bulletins.

Relevance to the Council's Plan

Good homes in well-connected neighbourhoods

6. This project will contribute to the Council's strategies and programmes for supporting communities through the delivery of education services to the benefit of the community.

Sustain strong and healthy communities

7. This contract will assist in the procurement of construction related activity within the borough and its associated employment and economic benefits. The Borough needs to ensure appropriate infrastructure is in place to allow the growth of the population.

Build our local economy to create a thriving place

8. The provision of good quality schools and buildings helps to ensure a stable strong community.

Background

9. (KD 5383 The School Condition and Fire Safety Programme 2022/23) which was approved by Cabinet in March 2022 included the projects to refurbish and repair The Swan Centre.
10. Cabinet approval was delegated as portfolio decision to the Cabinet Member for Children's Services in relation to the approval of tenders for any proposals exceeding £500,000 in value including professional and technical expenses.

Therefore, this report requires the Cabinet Member for Children's Services to delegate their responsibility for the approval of the tender to the Executive Director of People as this contract will exceed the approved £500k threshold.

11. The refurbishment and reorganisation of the building (the works) will address serious condition issues and will ensure that the building complies with suitability and sufficiency guidance as set out by the Department for Education in their Building Bulletins.
12. As all areas of the building are to have works carried out the school has been temporally relocated to another site. This will shorten the length of the contract and time on site as the contractor will be able to work in all parts of the building rather than being restricted to areas as they would if the building were occupied.
13. The gas fired boilers that had broken down were successfully replaced in 2022 by a connection being made to the Energetik Heat Network. In addition, the failed rooflights were also replaced in 2022. Both projects were part funded by Salix and part funded by School Capital Allocations (SCA) and the SCA costs are included in the Restricted Appendix A.
14. The works will comprise of replacement windows, complete rewire and electrical upgrade, new heating system improved disabled access new toilets, lifts, redecoration, improved fire escape arrangements and building insulation. These will deal with health and safety issues, statutory compliance, suitability and provide the required pupil places
15. Mobilisation and initial works are expected to commence in Q1 of 2023/24, with most of the work expected to be undertaken in 2023/24 (works are expected to be completed within 50 weeks' timeframe). Works will be managed by the Council's CMFM team and spend monitored via the Council's capital programme.

Main Considerations for the Council

16. The council as corporate Landlord is responsible for major works to address condition of its maintained schools.
17. The tender works comprise of refurbishment which includes replacing windows, doors, rewire, new heating system, redecoration, DDA improvements.
18. The tender is based on the JCT Intermediate with Contractor's Design 2016 (ICD) Contract. The tender documentation included: Preliminaries, Specification and Drawings, and Work Schedules.

19. The tender documents were issued on 28th November 2022 and tenders are due to be submitted by 23rd January 2023.
20. It is expected that the tenders will be opened on 18 November and a 2-week period has been allowed to evaluate the tenders and seek clarifications with the expectation that the preferred bidder can be recommended by 6th February 2023.
21. It is expected that the Executive Director of People will have obtained the delegated authority through this report to enable him to consider the tender report and approve the award of the construction contract by 13th February 2023 subject to the award being within the target sum contained in the Appendix A of this report.
22. The school is duty bound to provide a safe environment for teaching and learning.

Safeguarding Implications

23. The proposed capital works will ensure the school remains in a safe environment. The works concerned will be undertaken in full accordance with Health and Safety and Construction Design Management Regulations.

Public Health Implications

24. The Provision of good quality schools helps ensure a stable, strong community. All contractors and visitors to the school site will be advised of arrangements and restrictions relating to the current Covid -19 requirements.

Equalities Impact of the Proposal

25. The provision of local schools across the borough ensures quality of rights to good education provision. The EQIA assessment is attached to this report.

Environmental and Climate Change Considerations

26. Poor quality building fabrics are to be replaced with current materials which have more efficient insulation and thermal qualities.
27. Materials have been selected with due regard to their suitability, for purpose and performance, durability, ease of maintenance and repair, resistance to accidental or malicious damage and their environmental impact. Minimal

maintenance and economical availability or replacement parts are also essential for the facility to operate smoothly and efficiently.

28. Having connected the building to the Energetik Heat Network, the now redundant gas supply will be removed. As required under the Energetik supply agreement, the works include the replacement of all the heating pipework and radiators to operate at much reduced flow temperatures.
29. Other works include the installation of new double-glazed doors and windows, improved insulation to the roof and walls. These works will be significantly contributing to a decarbonised building.

Life Expectancy

30. The service lifespan assessment shall be as defined in ISO 15686 Part 1 Buildings and Constructed Assets – Service Life Planning, General principals.

Risks that may arise if the proposed decision and related work is not Taken

31. The building is in very poor condition and is not suitable for occupation and operational use. If these works are not undertaken, it cannot be put into use and will become an operational risk if left vacant and incur revenue costs to keep safe and secure.
32. The school will not be able to return to the site until the condition, suitability and sufficiency issues are addressed as would have to continue to share accommodation with another school

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

33. The key risks to this contract related to the possible poor performance of the contractors regarding quality of their work and delays. This risk is mitigated by robust performance and contract management by CMFM.
34. There will be robust contract monitoring to ensure the contract programme is maintained and delivered within the contracted dates. There are provisions in the contract for Liquidated and Ascertained Damages to be levied on the contractor should they not meet the contracted completion dates which will keep them focussed on meeting the programme. Any variations to the programme will be robustly managed to minimise the risk of any contract extensions. There will be robust financial monitoring to ensure the project is delivered within the approved budget and this includes a Client held contingency (that is not part of the Contract sum). The works will be closely monitored for compliance on site by the CMFM team and this team will include a Clerk of Works to ensure quality is not compromised.

Financial Implications

- 35. The project Quantity Surveyor has provided a detailed Order of Cost Estimates and Pre-Tender Estimate where it is expected that the tender for the construction works including project contingency, professional and technical fees should not exceed £6m.
- 36. The programme of works is fully funded from government grant, there will be no financing costs charged to revenue.
- 37. Refer to restricted appendix A for further details.

Legal Implications

- 38. The intended subsequent award of the contract under the Pagabo Framework Agreement must be in accordance with the procedures laid down in that Framework Agreement and the terms of such a contract shall be governed by such terms that the Pagabo Framework Agreement sets out to apply to contracts awarded under it.
- 39. The Council must comply with all requirements of its Constitution, Contract Procedure Rules ("CPRs") and the Public Contracts Regulations 2015 ("Regulations").
- 40. The Council must ensure value for money in accordance with the overriding Best Value Principles under the Local Government Act 1999. There must be adequate budgetary provision to enter into the contract and this report is seeking to increase the available budget in advance of the award of the contract itself.
- 41. The Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles. In addition, section 111 of the Local Government Act 1972 permits local authorities to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of their functions.
- 42. In respect of any contract with a value of £1,000,000 and over, the Council's CPR 7.2 states that the contractor must be required to provide sufficient security. 'Sufficient security', means one of the following: (i) parent company, ultimate holding company or holding company guarantee where their finances prove acceptable; (ii) director's guarantee or personal guarantee where their finances prove acceptable; (iii) performance bond, retained funds or cash deposit; or (iv) any other security as determined by Financial Management Services and/or Legal Services. Evidence of the form of security required or why no security was required must be stored on the E-Tendering Portal for

audit purposes. The framework agreement used may contain its own form of security and legal advice should be sought on this if required.

43. CPR 7.4 states: 'For contracts over £1,000,000 where the Supplier cannot provide Security, but the Council has no acceptable alternative provider or has decided to accept the level of risk, then the Executive Director of Resources must approve the financial risk prior to any award. The relevant Authority Report must set out the reason why it is proposed that the contract should be awarded despite absence of security and what measures are to be taken to manage this risk.'
44. A copy of this report should be made available to the Executive Director - People prior to the Executive Director – People taking the decision to award the contract under the delegation provided in this report.

Workforce Implications

45. There are no workforce implications as a result of the proposed works.

Property Implications

46. An inventory list of any materials procured will need to be kept and detailed within the Operation Manual which will be kept on the school site.
47. All new or revised asset data arising out of the proposed works must be sent by the Project Manager to Strategic Property Services for input onto the Asset Management Data System (Concerto), including revised site plans, floor plans, asset information, etc.
48. An inventory list of any material procured and produced will need to be kept. In the event of failure, appropriate arrangements will need to be made for these supplies to be retained and secured for the Council until a decision is made on how best to dispose of them.

Other Implications

Procurement Implications

49. This procurement has been carried out in accordance with the Council's Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015). This project was referred to Procurement Services for support as threshold was likely to be over the self-service limit. In line with the Procurement Assurance Group a gateway 3 report will be produced at award, and it is recommended that the Executive Director of People, asks for this to be appended to any operational report for award, once the winning bidder is known.

50. The procurement is taking place via the Council's e-Tendering portal under DN644374 as a mini competition from the Pagabo Framework. This will be promoted to the Council's Contract Register and Contracts Finder following award and commencement.
51. The Service Area shall be responsible for uploading the executed contract/agreement at the end of the procurement project.
52. As this contract will be over £500,000 the CPR's state that the contract must have a nominated contract manager in the Council's e-Tendering portal. The contract will be managed in line with the Contract Management Framework and evidence of robust contract management, including, operations, commercial, financial checks (supplier resilience) and regular risk assessment shall be uploaded into the Council's e-Tendering portal.
53. This contract has social value elements attached (these are currently unknown as the procurement is at evaluation stage) using the TOMs (themes outcomes and measures). It is the responsibility of the Contract Manager/Service Department to ensure that the social value elements of the contract are delivered, and evidence uploaded into the Social Value Portal by the winning supplier.

Options Considered

54. To do nothing is not an option as the non-compliant accommodation needs to be addressed and brought up to current standards and regulations as the build cannot currently be used for Special Education Need (SEN) teaching and learning. Failure to refurbish/recognise this building may lead to the authority not having sufficient SEN places to meet the needs of its community.

Conclusions

55. Approves the delegation of the award and to enter into the construction Contract and expenditure as detailed in restricted Appendix 'A' for the refurbishment of the school.
56. Approves the budget increase for this project as detailed in the Restricted Appendix 'A'

SignedDate.....

Cabinet Member – Children's Services

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Appendices/Attachments

Restricted Appendix 'A'
EQIA Assessment

Background Papers
None