



## **Mayor and Cabinet**

### **Report title: Contract Award for Stage 2 of Greenvale School Expansion Project (Part 1)**

**Date:** 7 October 2020

**Key decision:** Yes

**Class:** Part 1

**Ward(s) affected:** Perry Vale and Bellingham

**Contributors:** Executive Director of Children & Young People, Acting Group Finance Manager, SGM Capital Programme Delivery

### **Outline and recommendations**

This report provides an update on the Greenvale School Expansion project and recommends the award of the second stage contract for construction works to Geoffrey Osborne Limited. The contract will form phase two of a two stage design and build process.

## **Timeline of engagement and decision-making**

- Place Planning Strategy 2017-2022 – approved by Mayor & Cabinet on 22 March 2017
- Pupil Places Programme: SEND School Expansions – approved by Mayor & Cabinet on 28 February 2018
- Pre-Construction Service Agreement (PCSA) Award Report for Greenvale – approved by Mayor & Cabinet on 16 January 2019
- Public Consultation at Forest Hill Boys School – 09 March 2019
- Local Newsletter –September 2019
- Permission for Development (Planning Permission) – 20 November 2019

## **1. Summary**

- 1.1. This report provides an update on the Greenvale School Expansion project and recommends the award of the second stage contract for construction works to Geoffrey Osborne Limited. The contract will form phase two of a two stage design and build process.

## **2. Recommendations**

- 2.1. It is recommended that the Mayor and Cabinet (Contracts):
  - 2.1.1. Approve the award of the construction phase contract for the Greenvale School Expansion project to Geoffrey Osborne Limited (referred to as “Osborne” hereafter).
  - 2.1.2. Approve the construction budget set out in Part 2 of this report.
  - 2.1.3. Delegate authority to negotiate final contract terms (within the parameters set out in this report) to the Executive Director for Children and Young People.

## **3. Policy Context**

- 3.1. The Local Authority has a duty to ensure the provision of sufficient places for pupils of statutory school age and, within financial constraints, accommodation that is both suitable and in good condition.
- 3.2. The Greenvale School Expansion project supports the Council’s *Corporate Strategy Plan 2018-2022* commitments under *Giving children and young people the best start in life* by increasing ‘*the provision for children with special educational needs to meet children’s learning needs within the borough*’.
- 3.3. Furthermore, it supports the delivery of Lewisham’s *Children & Young People’s Plan* (CYPP), which sets out the Council’s vision for improving outcomes for all children and young people, and in so doing reducing the achievement gap between our most disadvantaged pupils and their peers. It also articulates the objective of improving outcomes for children with identified SEND by ensuring that their needs are met.

## **4. Background**

- 4.1. The Council has a statutory obligation to ensure the provision of school places in a sustainable way, across the borough. A need for Special Educational Needs and Disability (SEND) places for Lewisham children and young people was identified

following on from the 2016 SEND review. The Place Planning Strategy 2017-2022 confirmed the need for increased SEND places and was approved by Mayor & Cabinet on 22 March 2017.

- 4.2. It was identified within the Place Planning Strategy 2017 – 2022 that there was need for an increased number of SEND school places, as a high number of SEND students currently receive out-of-borough provision (resulting in a high cost to the Authority, and inconvenience to the families). This includes an additional 59 primary Severe Learning Difficulty (SLD) places and 93 secondary SLD places.
- 4.3. On 6 December 2017, a report was presented to the Mayor recommending Greenvale School as the preferred location to provide secondary SLD places. Officers were therefore duly authorised to commence the statutory consultation process to expand the school's provision from 117 to 210 places.
- 4.4. On 28 February 2018, the Mayor approved the expansion Greenvale School, budget and procurement of the capital works required to deliver the project via Lot 18 of the London Construction Programme (LCP) Framework.
- 4.5. Unfortunately, the initial attempt to tender this contract was unsuccessful, as only one tender was submitted, which was unaffordable. The tender exercise was therefore closed without a contract being awarded.
- 4.6. As a consequence, the Council had to undertake works over the summer of 2018 to provide temporary accommodation at Greenvale School to mitigate the delay in the project, and accommodate the increased need for SEND places.
- 4.7. The contract was then retendered on 11 September 2018 using a 2-stage open tender process, after receiving authority from Executive Director for Resources and Regeneration. A total of 36 bidders submitted a Standard Selection Questionnaire (SSQ), of which 7 were shortlisted for the second stage. Out of the 7 that were invited, 3 bidders submitted a full tender.
- 4.8. Following a tender evaluation exercise, the bid submitted by Osborne was ranked in first place overall. A contract award report was then taken to Mayor & Cabinet on 16 January 2019, recommending their appointment for Stage 1 (Pre-Construction Services Agreement) of a two stage design and build process to deliver the Greenvale School Expansion project. It was noted that a further report would be brought to Mayor & Cabinet to award the Stage 2 construction contract.
- 4.9. Since February 2019, officers have been working closely with the Osborne design team and school to develop a scheme that meets the school's and Council's requirements, obtains planning permission, and represents value for money. These objectives have now been achieved and so officers are seeking approval from Mayor & Cabinet to award the Stage 2 construction contract.

## **5. Stage 2 contract award**

- 5.1. The decision was taken by officers to deliver the Greenvale School Expansion project under a two stage design and build process, in order to provide the school with a more seamless experience between the design and build phases of the project, and reduce design, cost and programme risk for the Council.
- 5.2. With this approach, the appointed contractor, Osborne, provided a fixed price to design the scheme (Stage 1), which was delivered under a Pre-Construction Services Agreement (PCSA). Once the design was completed and agreed with the school and Council, they then tendered a fixed price for Stage 2 to deliver the construction phase of the project. Under the terms of the PCSA, the Council has the option to review the second stage submission tendered by the appointed Stage 1 contractor, and choose to award them Stage 2 or to re-tender the contract via another round of procurement (officers are recommending in this report to award Osborne the Stage 2 contract for construction).

- 5.3. As part of Osborne's original submission, they had to submit an estimated price for the construction works, which was evaluated as part of their final score. This price was not fixed, however, and was subject to change during the design development as the finer details and requirements of the scheme were discussed and agreed.
- 5.4. The scheme has faced a number of challenges which have led to cost increases and delays, not least the Brexit uncertainty and COVID-19 crisis. The single greatest rise in costs, however, was due to the total floor area of the scheme increasing by 20% from the original feasibility study in order to provide all the facilities required for the particular needs of the staff and students at this SEND school. There were additional cost increases resulting from the design development, which included: specialist requirements around ceilings and robust materials, challenging acoustic environments, bad ground conditions and BREEAM requirements.
- 5.5. Furthermore, costs were increased by the need to undertake works over the summer of 2018 to provide temporary accommodation at Greenvale School to mitigate the delay in the project, and accommodate the increased need for SEND places in the borough. Further financial detail, including the updated construction budget, affordability of the project and the Council's commercial position, can be found in Part 2 of this report.
- 5.6. The exact contract value has not yet been determined, as officers are still working with the contractor to agree the final design and commercial details of the project. It is therefore recommended that authority is delegated to the Executive Director for Children and Young People to negotiate the final contract terms, within the constraints set out above and in Part 2 of this report.

## **6. Financial implications**

- 6.1. Financial implications are included in Part 2 of this report.

## **7. Legal implications**

- 7.1. The value of the PCSA contract for Greenvale School makes it a Category A contract for the purposes of the Council's Contract Procedure Rules. The contract is over the limit required for advertisement for works contracts through OJEU. The contract has been procured under the two stage restricted procedure as set out in the Public Contract Regulations 2015. As stated at paragraph contract an award report was approved by Mayor & Cabinet on 16 January 2019, agreeing the contractor's appointment for Stage 1 (Pre-Construction Services Agreement) of a two stage design and build process to deliver the Greenvale School Expansion project.
- 7.2. As noted in the report of 16 January 2019 the work under the PCSA Part 1 required the contractor to develop the design of each build. All intellectual property rights in the designs, or any other documents produced by the contractor throughout stage would vest in the Council. The 16 January 2019 report noted the Council has an absolute discretion whether or not to proceed with the works following the completion of stage 1 under the PCSA's. Further, should the Council wish to proceed with the works, it has absolute discretion whether to use the contractor awarded the PSCA or another contractor. The report noted that the results of stage 1 would be brought back to Mayor

and Cabinet for a decision on whether to proceed with the works, and if so determined, to award the stage 2 works contracts.

- 7.3 The rationale for the proposed Stage 2 award and the proposed budget are set out within the body of report at Parts 1 and 2.
- 7.4 The decision is a key decision given its value and as it has an impact in more than one ward, therefore it must be contained in the Key Decision Plan.
- 7.5 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.6 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
  - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 7.7 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 7.6 above.
- 7.8 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 7.9 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so

without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<http://www.equalityhumanrights.com/en/advice-and-guidnace/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

- 7.10 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- The essential guide to the public sector equality duty
  - Meeting the equality duty in policy and decision-making
  - Engagement and the equality duty: A guide for public authorities
  - Objectives and the equality duty. A guide for public authorities
  - Equality Information and the Equality Duty: A Guide for Public Authorities
- 7.11 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/adivce-and-guidance/public-sector-equality-duty-guidance#h1>

## **8. Equalities implications**

- 8.1. This report supports the delivery of the Council's Equalities programme by ensuring that all children whose parents/carers require a place in a Lewisham school will be able to access one. No individual will be disadvantaged by the works.

## **9. Climate change and environmental implications**

- 9.1. The Greenvale School Expansion project is targeting a BREEAM excellent rating. This means the scheme is aiming to achieve the highest sustainability performance standard of this assessment.
- 9.2. Furthermore, Osborne's approach to reducing the impact of the works on the environment was assessed at tender stage, and met the required threshold.

## **10. Crime and disorder implications**

- 10.1. There are no Crime and Disorder Implications arising from this report.

## **11. Health and wellbeing implications**

- 11.1. The Greenvale School Expansion project will help to improve the health and wellbeing of children with special educational needs by constructing a building that is tailored to their specific requirements.

## **12. Social Value implications**

- 12.1. The Greenvale School Expansion project will deliver social value to the London Borough of Lewisham by working with colleagues in the Local Labour Business Scheme, Climate Resilience and Procurement teams to set targets in line with the Council's strategic aims and objectives for each of the contracts tendered.
- 12.2. Osborne's commitments to social value were assessed as part of the tender evaluation and met the required threshold.
- 12.3. The Local Labour Business Scheme (LLBS) team will monitor and facilitate delivery of Osborne's social value commitments. The Council's project manager for the scheme will ensure delivery in partnership with LLBS.

## **13. Background papers**

- 13.1. [Place Planning Strategy 2017-2022 – Mayor & Cabinet, 22 March 2017](#)
- 13.2. Further background papers are appended to Part 2 off this report.

## **14. Glossary**

- 14.1. Description of terms below.

<b>Term</b>	<b>Definition</b>
BREEAM	BREEAM is the world's leading sustainability assessment method for masterplanning projects, infrastructure and buildings. It recognises and reflects the value in higher performing assets across the built environment lifecycle, from new construction to in-use and refurbishment.
Brexit	Brexit is the withdrawal of the United Kingdom from the European Union.
COVID-19	Coronavirus Disease 2019 (COVID-19) is an infectious disease caused by a newly discovered coronavirus.
JCT Contract	The Joint Contracts Tribunal, also known as the JCT, produces standard forms of contract for construction, guidance notes and other standard documentation for use in the construction industry in the United Kingdom.

## **15. Report author and contact**

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