

Cabinet – Supplementary Agenda

A meeting of the Cabinet will be held on:
Date: 8 June 2010
Time: 3.00pm
Venue: Meeting Room 2 - Level 3, Gun Wharf, Dock Road, Chatham ME4 4TR

Items

10. **Gateway 3 Contract Award: Renewal of Bus Service Contracts September 2010** (Pages 1 - 12)
Addendum Report.
11. **Gateway 3 Contract Award: A228 Stoke Crossing** (Pages 13 - 22)

This report sets out the recommendations for the award of the contract for the construction of a bridge at the A228 Stoke Crossing.

Please note that there is an exempt appendix to this report which identifies the tenderers for the contracts and provides details of the procurement and evaluation processes. It is considered the need to keep this information exempt outweighs the public interest in disclosing the information.

Therefore, should Members wish to discuss the exempt appendix, the Cabinet is recommended to exclude the press and public as it contains commercially sensitive information under paragraph 3 of part 1 of Schedule 12A of the Local Government Act 1972.

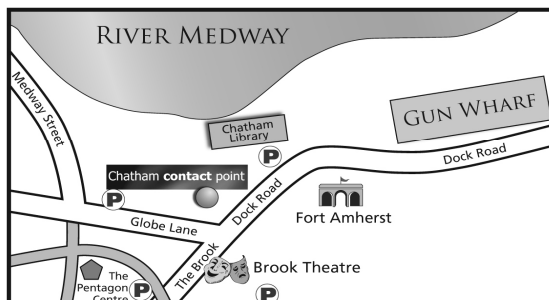
Definition:

Paragraph 3: Information relating to the financial or business affairs of any particular person (including the authority holding that information).

13. **Exclusion of the Press and Public** (Pages 23 - 32)

For further information please contact Wayne Hemingway/Anthony Law, Cabinet Coordinators on Telephone: 01634 332509/332008 or Email: democratic.services@medway.gov.uk

Date: 3 June 2010



This agenda and reports are available on our website
www.medway.gov.uk

A summary of this information can be made available in other formats from **01634 333333**

If you have any questions about this meeting and you want to speak to someone in your own language please ring **01634 335577**

ভাষা	331780	ગુજરાતી	331782	ਪੰਜਾਬੀ	331784	کوردی	331841	ارو	331785	Русский	332374
中文	331781	हिंदी	331783	Polski	332373	এংক্‌শাফব	331786	فارسی	331840	Lietuviškai	332372



CABINET

8 JUNE 2010

ADDENDUM REPORT

GATEWAY 3 CONTRACT AWARD: RENEWAL OF BUS SERVICE CONTRACTS SEPTEMBER 2010

Portfolio Holder: Councillor Filmer, Front Line Services

Report from/Author: Caroline Salisbury, Overview and Scrutiny
Co-ordinator

Summary

This addendum report advises Members of the discussions and recommendations following a petition referral at the Regeneration, Community and Culture Overview and Scrutiny Committee meeting held on 1 June 2010.

1. Budget and Policy Framework

1.1 These are contained within the main report on the agenda.

2. Background

2.1 The Regeneration, Community and Culture Overview and Scrutiny Committee considered a petition referral on 1 June 2010.

2.2 The petition requested the council to establish a bespoke bus service for children travelling between St Mary's Island and secondary schools in Chatham and Rochester with immediate effect.

2.3 An extract of the report considered at the overview and scrutiny meeting is attached as an Appendix.

3. Overview and Scrutiny discussion and recommendations

3.1 The committee heard from the lead petitioner about the daily three hour round trip her 12 year old daughter took from St Mary's Island to attend Rochester Grammar School for Girls.

- 3.2 Members were informed that there are 58 children living on St Mary's Island who could make use of a direct bus service to the secondary schools and as there are further developments being built on the island, there will be more people needing a bus service.
- 3.3 The lead petitioner spoke about the environmental, economic and educational benefits a direct bus service would bring to all the residents of Medway, as it would cut down on the number of parental 'taxis' driving to and from the schools, a lack of bus service was a disincentive for people to move into new housing provision and it was also a barrier to full time work for many mothers because of the need to drive their children to and from school.
- 3.4 Councillor Esterson, as ward councillor, also addressed the committee and spoke about a question that had been raised at Council on 15 April 2010 on the same subject. He reminded Members that there had been an underspend on the half price travel subsidy for young people last year. At the Council meeting, the Portfolio Holder had advised that the budget spent on subsidising other bus routes was up by £1 million and therefore a large proportion of the underspent budget had been used to ensure people were able to get to work. However, Councillor Esterson pointed out that here was a route specifically being asked for children to use which was what the budget was meant to be spent on.
- 3.5 The committee asked various questions about the cost effectiveness of running a service along this route all day or whether a twice a day trip specifically for school children, similar to the yellow bus scheme, was more viable.
- 3.6 Officers responded that where the council subsidised a route it tried to meet a variety of needs but there were a few examples of subsidy being used specifically for a school route.
- 3.7 Members asked whether the route from St Mary's Island to the secondary schools would qualify as a yellow bus route, in comparison to the number of children using the buses already running. Officers were also asked whether there was a rationale of priorities considered when the current yellow bus routes were chosen.
- 3.8 Officers advised that the yellow bus scheme had been developed primarily to get people out of cars and it had been recognised that it would not be achievable throughout the whole of Medway. The number of routes had slowly increased and there should be a few more added in this current tender process, if finance allows.
- 3.9 Officers added that the route requested in the petition had been added to the list of tenders which were due to be received by 3 June 2010. A route had been put together to get the children to their schools ten to fifteen minutes before school started but because of the different

school closing times, it would mean the bus would have to wait around for ten minutes in one case. A service that ran once in the morning and once in the afternoon would not allow children to stay behind for any extra-curricular activities.

- 3.10 The committee was advised that it might be possible to review and adjust the current early morning journeys to lessen the journey time by improving the connections in Chatham but with six schools and commuters also using the service to access Chatham railway station, it is difficult to time the service to meet everybody's needs efficiently. The current afternoon service (from Chatham to St Mary's Island) runs without a subsidy from the council so there was no direct control by the council but officers would be happy to talk this through with the bus company.
- 3.11 The committee agreed to strongly recommend its support to this request and ask Cabinet to achieve the funds to make a school bus service available from St Mary's Island to the six secondary schools in Chatham and Rochester.
- 3.12 The committee also requested that a report back on the outcome of the tender process and award of the contracts is submitted for consideration to the next meeting on 6 July 2010.

4 Director's Comments

- 4.1 No bus company has shown an interest in providing this service at their own financial risk and it would appear that a subsidy is needed if this service is to be provided.
- 4.2 As promised to the petitioners, this service has been included, without commitment, in the batch of tenders for services whose contracts expire in September. The award process for these is being considered by the main report to Cabinet. This will allow a decision to be taken on this service with a full understanding of the costs and opportunities for providing this link.
- 4.3 The St Mary's Island petition contained 242 signatures. A further petition with 476 signatures was presented at the same Council meeting requesting an evening and Sunday bus service to the White Road Estate area of Chatham. Potential services to meet this requirement have also been included in this batch of tenders.

5 Financial and legal implications

- 5.1 The main report on the Cabinet agenda identifies at 2.1 (c) that the requested tender should identify the costs of the requested service. Those tenders are due to be received on 3 June 2010 pending the

outcome of these tender submissions the financial viability of the service will be assessed as part of consideration by Procurement Board and the Assistant Director Housing and Corporate Services.

6 Recommendation

6.1 The Regeneration, Community and Culture Overview and Scrutiny Committee recommend that Cabinet:

- (a) note its strong support to the petitioners request to establish a bespoke bus service for children travelling between St Mary's Island and secondary schools in Chatham and Rochester;
- (b) requests that Cabinet considers subsidising this route (even by way of yellow bus scheme) if no bus company has shown an interest in providing this service.

Lead officer contact

Geoff Walters, Public Transport Manager

Telephone No: 01634 331058 email: geoff.walters@medway.gov.uk

**Extract of Petitions report to Regeneration, Community and Culture
Overview and Scrutiny Committee on 1 June 2010**

4 Petitions referred to this committee

4.1 The following petition has been referred to the Committee for consideration as the lead petitioners have indicated that they are dissatisfied with the responses received.

4.2 Bus service from St Mary's Island to Chatham/Rochester schools

This petition was presented to Council on 4 March by Councillor Esterson. The petition stated:

"Request the council to establish a bespoke bus service for children travelling between St Mary's Island and secondary schools in Chatham and Rochester with immediate effect."

4.3 The Director of Regeneration, Community and Culture responded to the petition and the letter is attached at Appendix A.

4.4 The letter requesting referral to the Committee is attached at Appendix B.

4.5 This matter was also considered by council on 15 April 2010 where the Portfolio Holder for Front Line Services, Councillor Filmer, was asked the following question:

"Many secondary school pupils, from the age of 11, are forced to spend three hours of their day (in addition to the school day) commuting via a series of buses from St Mary's Island. Is the Portfolio Holder aware of this, and if so, does he not agree that better school transport provision from St Mary's Island is required to improve our children's welfare and safety."

4.6 The Portfolio Holder for Front Line Services, Councillor Filmer responded that he was aware of the concerns raised by residents of the existing bus service from St Mary's Island. He stated that although children travelling from St Mary's Island have to change buses at either Chatham bus station or railway station, generally, it should be possible to reach school within an hour with one change of bus. However, the Council was exploring ways in which school bus links from St Mary's Island might be improved and this had been added to the list for tenderers for the next academic year so bus operators can consider providing a direct service from St Mary's Island. Unfortunately, previously, bus operators had not shown any interest in providing a direct link but the Council would continue to work with them on provision.

- 4.7 A supplementary question referred to the under spend on the half price travel subsidy for young people last year and the Portfolio Holder was asked if he could give a commitment to diverting these funds towards supporting a procurement process to solve the problem.
- 4.8 Councillor Filmer responded that although there was an under spend on the half price bus fares for young people, the budget spent on subsidising other bus routes was up to £1 million. This was on buses for work related routes, rather than social evening use. Therefore a large proportion of the money had been used to ensure people were able to get to work. He again undertook to continue exploring possibilities to make improvements to bus routes for the school children on St Mary's Island.
- 4.9 Director's Comments

By changing buses in Chatham it is possible to get from St Mary's Island to the various secondary schools in Chatham and Rochester. It is not uncommon for children to have to change buses where, for whatever reason, it is not possible to offer a direct service between home and school, even if children qualify for free school travel because they live 3 miles or more from their nearest appropriate school.

The residents of St Mary's Island have suggested that there are 57 children who would use this service attending 6 schools – Fort Pitt, Rochester Grammar School for Girls, Sir Joseph Williamson's Mathematical School for Boys, Thomas Aveling, Chatham Grammar School for Boys and St John Fisher. Because of the differing school start and finish times, for some of these schools the journey may be quite lengthy if one journey is provided.

Nevertheless, the opportunity for this service has been discussed with a number of bus companies. So far no operator has shown an interest in providing this service unless a subsidy is paid.

If a Council does offer a subsidy for a bus service it is obliged to invite tenders. This service has, therefore, been added to the planned tender for contract renewals from September 2010. The closing date for these tenders is 3 June 2010.

The inclusion of this service in the planned tender will allow a detailed consideration of the opportunity to provide this service. However, this does not guarantee that a contract will be awarded. The outcome of the tenders will be considered by Cabinet in due course. At this stage, the budget for the support of bus services is fully committed and therefore this new service – if it does require a subsidy – can only be considered if the tenders for other services yield savings, bus services elsewhere are curtailed or funding is made available from other sources.

If a new service is introduced as a scheduled bus service, users will be able to travel at half-fare if they have the appropriate pass. Half-fare travel with these passes is funded by the Council from a separate budget. In past years, the cost of this concession has proved to be less than the budget allocated. The costs of half-fares are expected to rise this year because of the full year impact of the extension to age 18 and the increasing number of passes in circulation.

5 Financial and Legal Implications

- 5.1 Any financial and/or legal implications arising from the issues raised by the petitions are set out in the comments on the petitions.

6 Recommendation

- 6.1 Members are requested to:
- (a) note the petition responses and appropriate officer action in paragraph 3 of the report;
 - (b) consider the petition referral and Director's comments in paragraph 4 of the report.

Please contact: Lynn Utchanah

Your ref:

Our ref: RC/ME67

Date: 16 March 2010

Ms P Matthewman
12 Little Victory Mount
St Mary's Island
Chatham
Kent

Director's Office
Regeneration, Community and Culture
Medway Council
Gun Wharf, Dock Road, Chatham
Kent ME4 4TR
(DX56006 STROOD)
Telephone: 01634 331323
Facsimile: 01634 331729
email: lynn.utchanah@medway.gov.uk

Dear Ms Matthewman

Petition – Bus Services from St Mary's Island to Chatham/Rochester Schools

Thank you for your petition that was presented at Council on 4 March 2010, requesting the provision of a bespoke bus service between St Mary's Island and the secondary schools in Chatham and Rochester.

Since the deregulation of bus services in 1986, bus operators may run where and when they choose if they feel that there are sufficient passengers for them to do so without a subsidy. Where no operator is prepared to do this, but there is felt to be a need for a service, a Council can offer a subsidy, but is obliged to invite tenders from all interested bus companies to run the service.

There have already been a number of discussions with Arriva about the possibility of providing a direct service from St Mary's Island to various schools. However, the company has said that they are unable to offer this link without financial support. The Council has also approached a number of other bus companies to see if they are interested in providing this link. So far, nobody has responded with a firm proposal.

From the Council's point of view, the budget for the support of bus services is currently fully committed and I am unable to offer any additional services in the immediate future. As I have explained above, if the Council is to fund a service, I am obliged to issue tenders to all operators to give them the opportunity to bid. I shall shortly be inviting tenders to continue a number of contracts that are due to expire in September. I shall add the service that you have requested to these tenders so that we know the costs and opportunities to run this route. Adding this service to the tenders will also let all the

This information is available in other formats and languages from Leigh Ann Thurgood on 01634-331022. If you wish to contact the Council through the Minicom (text) facility please ring 01634 333111.

operators know that there is felt to be a need for this service to be provided and they may also put forward suggestions of how this can be done.

A possible timetable for this service has been devised which is shown below. This takes account of the various different start and finish times of the schools which have been included in the previous discussions and also the time allowed at the moment for buses to travel over the various sections of road involved. You will see that it is difficult for one bus to achieve the ideal time at each school. In addition, the afternoon journey would need to wait 6 minutes at Chatham Boys Grammar School (or leave the previous schools 6 minutes later) because of the different finishing times.

Mornings

	School start	Bus time	Bus arrival - Minutes before school start
St Marys Island		0758	
Fort Pitt	0820	0810	10
Maths/Roch Girls Gr	0825	0818	7
Thomas Aveling	0840	0823	17
Chatham Boys Gr	0840	0827	13
St John Fisher (M Rd)	0845	0829	16
St John Fisher (Rly Stn)	0845	0833	12

Afternoons

	School finish	Bus time	Bus departure - Minutes after school finish
Fort Pitt	1500	1515	15
Maths/Roch Girls Gr	1510	1525	15
Thomas Aveling	1500	1530	30
Chatham Boys Gr	1535	arrive depart 1539	1539 1545
St John Fisher (M Rd)	1530	1547	17
St John Fisher (Rly Stn)	1530	1551	21
St Marys Island		1600	

I cannot promise, at this stage, that the service you have requested will be provided but including this service in the next round of tenders will allow the opportunity for this service to be considered in detail with the responses which are received to the tenders.

I am sorry that I cannot be more positive at this stage. However, it is still possible to make this journey by changing bus at either Chatham Bus Station or Chatham Railway Station. However, we will look, in detail, at the possibility of providing a service to your area from September and will let you know the outcome of this review in due course.

**This information is available in other formats and languages from Leigh Ann Thurgood on 01634-331022.
If you wish to contact the Council through the Minicom (text) facility please ring 01634 333111.**

I hope the information is helpful. If you do not consider that the issues raised in your petition have been addressed, please refer to the procedure sent with the acknowledgment letter for a possible further course of action.

Yours sincerely

Robin Cooper
Director - Regeneration, Community & Culture

This information is available in other formats and languages from Leigh Ann Thurgood on 01634-331022. If you wish to contact the Council through the Minicom (text) facility please ring 01634 333111.

12 Little Victory Mount
St Marys Island
Chatham
Kent
ME4 3TB

22nd March 2010

Dear Sir/Madam

Re Petition; Bus Service from St Marys Island to Chatham/Rochester Schools

We have received a response to this petition from Robin Cooper (Your Ref RC/ME67, 16th March 2010).

We are not satisfied with the directorate's response and request that the matter is referred to the relevant Overview and Scrutiny Committee.

We would like an immediate commitment from Medway Council for a direct bus service and question the assumption that the budget for support of bus services is currently fully committed.

Yours Sincerely



Patricia Matthewman
On behalf of St Marys Island Residents

CC - Robin Cooper.



CABINET

8 JUNE 2010

GATEWAY 3 CONTRACT AWARD – A228 STOKE CROSSING

Portfolio Holder: Councillor Phil Filmer, Front Line Services

Report from: Robin Cooper, Director of Regeneration, Community and Culture

Author: Ian Wilson, Head of Capital Projects, Road Safety and Networks

Summary

This report seeks the approval to the award of a contract for the construction of a bridge at Stoke Crossing on the A228.

1. Budget and Policy Framework

- 1.1 The A228 Stoke Crossing is funded by the Homes and Communities Agency (HCA). The improvement schemes to the A228 of which this forms part are supported by relevant policies contained within the Local Transport Plan and are key to the delivery of the regeneration proposals for the former refinery site at Grain. The project will be part funded from HCA and part from a developer contribution.
- 1.2 A funding agreement with HCA is in place and a S106 Agreement with National Grid has been signed. The estimated project costs are within the funding agreements as shown in the financial section of the report. The project is the subject of a major planning application. This application provides detailed assessment of the project against national, regional and local planning policies. These include PPS1 & Climate Change Supplement PPG13, Towards a Sustainable Transport System, South East Plan CC1, CC4, T1 & T14 and Medway Local Plan T3, T4 & T18.
- 1.3 The project is, therefore, within the Policy and Budgetary Framework of the Council.
- 1.4 The project funding from the HCA is limited to the current financial year. The very restricted timescale means that delivery is dependent on thorough planning of initial operations, in particular gaining the approval of Network Rail, the Environment Agency (EA) and the GPSS (who control the

Government fuel pipeline). The involvement of the contractor at this stage of the project, even before planning permission is granted, will significantly increase the efficiency of the project delivery and mitigate against a number of the risks which are dealt with in more detail later in the report.

- 1.5 Delays in obtaining the approvals will delay the start. Certain works, such as moving water voles to safe areas are seasonal and cannot be delayed. This work must be planned and approved by the EA. Delays to the start will put at risk the likelihood of committing all the HCA funding in the current financial year in accordance with the funding agreement. In addition, it is essential that early approval is gained to methods of working near services and over the railway in order that there can be certainty that no changes are going to be made prior to the steel being ordered. Over the last 6 months steel prices have risen by 200/tonne. Delay in approval will result in delay in ordering and the current best estimate is that the price is expected to rise by a further 80/tonne. For these reasons Cabinet is asked to consider this an urgent item.
- 1.6 The Chairman of the Regeneration, Community and Culture Overview and Scrutiny Committee has agreed to waive call in on this report on the basis that this matter is reasonable in all the circumstances and to it being treated as a matter of urgency in accordance with Rule 16.11 of the Overview and Scrutiny Rules (Part 5 of Chapter 4 in the Constitution).

2. RELATED DECISIONS

- 2.1 Cabinet approved the scheme and the submission of a planning application at its meeting on 15 December 2009 (decision 234/2009 refers). A further approval to seek Compulsory Purchase Powers, should they be required, was made at Full Council on 4 March 2010.

3. BACKGROUND/INTRODUCTION

- 3.1 Tenders have been received for this project and details of their analysis are set out in the exempt appendix. The value of the tender exceeds the Director's delegated authority and the matter is therefore a decision for Cabinet. The report recommends that the tender be accepted. However, full commitment to the project will not occur until the grant of planning consent. A decision on the planning application is expected on 14 July 2010.
- 3.2 Assuming consent is granted the order for the steel will be placed on 15 July 2010 as will the application for a Licence to move the water voles and the application for Land Drainage Consent will also be submitted.

5 SUMMARY OF THE BUSINESS CASE

5.1 Strategic Context

A full Treasury Green Book Analysis was done for this project as part of the application for CIF funding and was submitted to both Procurement Board and Cabinet as an Appendix to the Gateway 1 Report. It is not proposed to revisit the Business Case at this stage. The only major change of note is that the

National Grid planning application was approved and, as a consequence, a S106 Agreement is now in place that guarantees the financial contribution necessary for the completion of this scheme.

5.2 Whole Life Costing/Budgets

Funding from HCA covered both this project and the Fenn Corner roundabout which is currently being built. The total for both is £10.58m. Of this £1.5m has been set aside for Fenn Corner leaving a total of £9.1m (rounded). In addition to this the S106 Agreement will provide a further £5m towards the scheme. Including advance payments for service diversions, the cost of site investigations and surveys plus design fees etc. approximately £2.7m has been spent or committed to date. Details of anticipated costs are included in the exempt appendix but it is concluded that there are sufficient funds to complete this project.

5.3 Risk Management

The risk register submitted with the Gateway 1 Report is attached as Appendix A. This has been updated to show the revisions to the risks as at the current date. It should be noted that, apart from the land agreements, risks are now currently considered low but it should also be noted that any delay at this stage will threaten delivery of the project so the consequences are very severe.

5.4 Stakeholder Consultation

The planning application has been submitted and advertised for representations. In addition to statutory consultees any parties with interests in the land or the local habitats have been contacted and informed of the application and where to find the details. Early briefings were offered to the two Parish Councils most affected. Discussions with Police and advisors also took place.

5.5 Equalities Issues

There are no equalities issues.

5.6 Environmental Issues

5.6.1 The protection of the environment is a key part of this project. As noted in the Gateway 1 report, the site is in, or adjoins two Special Protection Areas (SPA), SSSI and Ramsar site. The local ditches and watercourses are home to a large number of water voles which are a protected species. The contract includes for their relocation prior to work being done and for both local and off-site habitat creation for both voles and for over-wintering birds. The off-site works will be done at land north of Cooling adjoining, but not within, the SPA.

5.6.2 The voles will be relocated to an area to the north of the site, within Stoke Marshes and released in an area with a low vole population. Once the construction of the bridge is complete, the area around it will be reinstated

and upgraded to provide high quality habitat for voles and other wildlife. It is not intended to move the voles back but it is anticipated that, as the population increases the reinstated ditches will become occupied.

- 5.6.3 In order to safeguard the land improvements carried out as mitigation it will be necessary for the Council to enter into licence arrangements for the management of the land both on land it acquires and on other areas used as mitigation. The land to be acquired is the minimum necessary for the bridge and its future maintenance.
- 5.6.4 The works will be carried out over the winter months which is the time when it is most likely that over-wintering birds will be affected. For this reason special piling techniques will be used to minimise disturbance. The main works will be completed by Spring of 2011 and it is expected that the full HCA funding will be spent on time. However some environmental reinstatement works are seasonal in nature and it is probable that these will only be finalised in the late Autumn or early winter of 2011. It may be that planning conditions require further work going into 2012. Funding for this is not a problem as this time period is built into the S106 Agreement funding from National Grid.
- 5.6.5 An additional problem is that Scotia Gas introduced a late requirement to divert their medium pressure main. In the early stages of this project the main was not going to be diverted. It is not possible for Scotia Gas to divert the main prior to start on site so it will be protected during the main works and they will come in after the road is open to carry out the diversion. Exactly how this is achieved will be dependent on dialogue between Scotia Gas and the selected contractor. However it is likely that some elements of the environmental mitigation for the bridge will be delayed until after Scotia Gas complete their works.

6. PERMISSIONS / CONSENTS

A number of consents are required and are listed below. The limited timescale and the need to provide details of working methods and proposals are a key reason to have the contractor involved at the earliest possible time.

- Planning Consent – Submitted, determination due 14 July
- Network Rail – Revised submission lodged
- River Works Licence – Required because the ditches have a classification as Main River, working methods required.
- Licence to relocate water voles – Cannot be given until planning consent granted
- S16 Consents to work over or near strategic utility services – details of working methods required
- S185 Agreement for diversion of water main - submitted
- Railway possession for working over or adjacent to lines - booked

7. INVITATION TO TENDER

7.1 Summary of Tender Process

7.1.1 The tender process was by way of the Accelerated Restricted Procedure under EU rules where the notice periods are allowed to be reduced for public infrastructure projects that will provide a boost to the local economy. The OJEU notice was published on 15 March and completed Pre –Qualification Questionnaires returned by 5 April. The submissions were assessed against criteria agreed with the Procurement Team and Legal Officers and 5 tenderers selected.

7.1.2 Tenders were issued on 12 April and returned on 12 May. Tenders were evaluated on both price and quality. Tender feedback will be provided to all contractors once a decision has been made.

7.2 Tender Evaluation

7.2.1 The submitted tenders were checked for compliance with the tender invitation as well as numerical accuracy and whether or not there were any qualifications. Evaluation of the bids was done on the basis of a 60:40 weighting for quality and price. The evaluation matrix (agreed with Procurement Team) completed for each tenderer, together with the final scores based on the inclusion of price is attached to the exempt appendix.

7.2.2 As can be seen from the matrix, key areas of expertise were identified and the quality of the contractors' proposals to deal with them assessed. The primary quality assessed was their proposals to deal with the environmental issues which reflects the importance of the site and the Council's commitment to the

environment. The highest score on the quality assessment was given to Tenderer E. The second highest was Tenderer B.

7.2.3 The financial sections of the tenders were also scrutinised to assess whether any areas of work carried an unusually high or low price which might indicate an error on the tenderers' part or that their assessment of risk was significantly different to that of Officers. There were no major discrepancies in the weighting of any of the tenders. The price submitted by Tenderer B was the lowest while that of Tenderer E was the highest. It should be noted that the difference between the lowest and second lowest priced tender is only 0.2% and that the difference between lowest and third lowest priced tender is 2%. This demonstrates that the tenders were extremely competitive and that the lowest priced tender does represent best value.

7.3 Preferred Bid

Although Tenderer E scored highest on their quality submission, they also submitted the highest priced tender. This was significantly higher than the others and this meant that their overall score in respect of the evaluation matrix was the lowest, i.e. their bid was not the most economically advantageous. Therefore, the company with the highest score after being assessed against the financial and technical criteria in the evaluation matrix is Tenderer B. This company submitted the most economically advantageous tender and it is the preferred contractor.

8. PREPARATION OF THE NEXT STAGE OF PROCUREMENT

8.1 Resources & Project Management

As agreed at the Procurement Board, the contract is a standard ICE 6th Edition form without significant modification. The contract will be managed in-house by the Capital Projects team but a number of additional specialist skills will be required. A full-time Resident Engineer with extensive bridge and soft ground experience will be appointed as the site representative for the Council. This appointment will only be for the duration of the main contract and may be done either through an agency or through a consultancy. The costs will be fully covered by the project funding. It is not anticipated that any appointment will be of sufficient length to gain employment rights.

8.2 Contract Management

As noted in Section 5 above, creation and inspection of environmental mitigation areas is likely to continue beyond the completion of the main bridge works. This will be managed by the Capital Projects team but using external skills and advice where necessary. Funding for this ongoing interest and control is included within the budget. Until the planning conditions are known, the extent of external skills required will not be known. However it is intended for ongoing inspections, to continue to use the Mott MacDonald team who have been involved from the earliest surveys and all discussions with Natural England and other interested parties.

9. COMMENTS OF THE PORTFOLIO HOLDER FOR FRONT LINE SERVICES

- 9.1 This report seeks the approval to the award of a contract for the construction of a bridge to replace the level crossing near Stoke on the A228.

10. FINANCIAL, PROCUREMENT AND LEGAL COMMENTS

- 10.1 Details of the budget breakdown and the tender evaluations are attached to the exempt appendix. The scheme will be fully funded by the HCA and developer contributions. The tender process ensures value for money for the Council.
- 10.2 Strategic Procurement has provided Quality Assurance throughout the procurement process including a review of the timetable and evaluation criteria associated with the procurement documentation at Gateway 2. Strategic Procurement is satisfied that a robust and compliant procurement process has been conducted and should deliver the requirements of the original specification and business case and further should deliver best value. Strategic Procurement further supports the recommendations as highlighted within this report including the option to waive contract rules as specified within Section 11.1 (a).
- 10.3 The procurement process was undertaken in accordance with the provisions of the Public Contracts Regulations 2006 (as amended). The award of the contract was stated to be on the basis of the most economically advantageous tender. The criteria in the evaluation matrix used to evaluate tenders shows that award of the contract to the tenderer with the highest score will give the Council value for money.

The Council must comply with the mandatory standstill period and notification requirements set out in the Public Contracts Regulations 2006 as amended by the Public Contracts (Amendment) Regulations 2009

This report should, in accordance with contract rules and the gateway process, have been reported to Procurement Board prior to consideration by Cabinet. However, given the reasons for urgency, as set out in paragraph 1, a request to waive this requirement has been made. In accordance with paragraph 12.1 the body authorised to award the contract (here the Cabinet) can, in consultation with the Monitoring Officer, waive contract rules where it is considered to be in the best interests of the Council to do so provided that the waiver does not breach any EU or UK directive, statute or regulation. The Monitoring Officer recommends that Cabinet consent to waiving contract rules to permit this decision to be made without prior consideration by Procurement Board. The waiver does not breach any EU or UK directive, statute or regulation. The Chair of the Procurement Board has also been consulted.

11. RECOMMENDATIONS

11.1 Cabinet is recommended to:

- (a) Waive contract rules to permit the Cabinet to make this decision without the Procurement Board first having considered the report.
- (b) Accept the most economically advantageous tender, submitted by Tenderer B as set out in the exempt appendix.
- (c) agree that these decisions are considered urgent and therefore should not be subject to call-in.

12. SUGGESTED REASONS FOR DECISION(S)

12.1 The recommendations are made appoint the contractor who submitted the most economically advantageous tender and so that the project can proceed efficiently and to avoid any risk that it may not be delivered within the required timescale.

Report Originating Officer:	Ian Wilson	☎ 01643 331543
Chief Finance Officer or deputy:	Peter Bown	☎ 01634 332311
Monitoring Officer or deputy:	Angela Drum	☎ 01634 332022
Head of Procurement or deputy:	Gurpreet Anand	☎ 01634 332450

Background papers

The following documents have been relied upon in the preparation of this report:

Description of document	Location	Date
None – The tender assessment report contains information that is considered commercially sensitive, all others are included in the planning application which is in the public domain		

RISK REGISTER - A228 Stoke Crossing

D= Avoid, A = Accept, R = Reduce, T = Transfer

No.	Item	Details	Initial Probability VH/H/M/L	Initial Consequence VH/H/M/L	DART Classification	Method of Control	Residual Probability VH/H/M/L	Residual Consequence VH/H/M/L
1	Funding	Failure to obtain contributions would detrimentally affect project viability	M	VH	R	Negotiations with National Grid Property are in progress. A formal agreement will depend on NR submitting an acceptable planning application. Planning consent granted and S106 in place	0	Discharged
2	Environmental Problems	Problems in gaining approval of Natural England or onerous pre-commencement planning conditions	H	H	R	Early consultation has involved Natural England, RSPB and EA. Environmental impact has been anticipated at outline design stage. All parties are being kept fully briefed on the issues and there is an ongoing dialogue	L	VH
3	HCA Funding	Construction would be in 2010/11 and HCA has not guaranteed funding for year 3	L	VH	R	Continue dialogue with HCA to explain progress. HCA have been fully involved in the negotiations with National Grid. Funding is currently agreed	0	Discharged
4	Ground Conditions	Poor ground conditions lead to increased costs	H	L	T	It is known from the location that the ground conditions will be very poor and this has been factored into the estimates. Detailed site investigation completed	0	Discharged
5	Network Rail Agreement	Delay in obtaining NR permission to build over the railway could delay the project	L	H	D	NR are fully supportive of the project and are willing to make a small financial contribution. NR will be involved in design development. Design details submitted in accordance with NR requirements	L	L
6	Planning Permission	Failure to obtain planning permission would prevent project progress	L	H	R	There is local support for the principle of the scheme, objections are most likely to be on environmental grounds which is why stakeholders have been involved at project inception.	L	VH
7	Tender Values	Tender values exceeding the approved budget would impose a high risk on the Council	L	H	D	Prospective tenderers will be involved at an early stage to give a view as to the robustness of estimates. Tenders now received	0	Discharged
8	Timing	Slight delays in delivery may affect seasonal work so delaying the project by a substantial period	L	H	D	The project planning takes account of seasonal works and separate early contracts will be let for site clearance etc. The tendered scheme takes account of seasonal work	0	Discharged
9	Land	Delay or failure to acquire the necessary land would delay the project or prevent it being carried out	L	H	D	CPO powers will be sought if there is a resistance to negotiation. Negotiations are well advanced, the primary remaining risk is completion	M	VH

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank