

## **CABINET**

**9 MARCH 2010**

### **GATEWAY 3 CONTRACT AWARD AND GATEWAY 4 CONTRACT REVIEW: WALDESLADE PRIMARY SCHOOL REBUILD**

Portfolio Holder: Councillor Les Wicks, Children's Services  
Report from: Rose Collinson, Director of Children and Adult Services  
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#### **Summary**

This report summarises the development of this project since the Cabinet report of 24 August 2009 with an update on the first stage contractor's performance (Contract Management Gateway 4) and a recommendation for the appointment of the contractor for the main works (Contract Award Gateway 3).

#### **1. Budget and Policy Framework**

- 1.1 The project will be funded from the Council's allocated budget for the Primary Capital Programme. The cost of the project is affordable within this overall budget. Therefore, this is a matter for Cabinet.
- 1.2 The Cabinet is asked to accept this as an urgent item to enable the contract for the main works to be let and to commence as soon as possible.

#### **2. Background**

- 2.1 In August 2009 Cabinet approved the appointment of a preferred contractor for pre-construction works. This resulted in the appointment of Mansells Construction Services to provide input to progress some of the complex design and buildability issues relating to the complex site conditions.
- 2.2 Following the completion of the pre-construction phase, a cost for works has been submitted by Mansells and approved by an independent firm of quantity surveyors. By involving the preferred bidder in the pre-construction phase, including the detailed development of the design and assessment of site

issues, this enables the contractor to provide a fixed price for the overall cost of construction.

### **3. Related Decisions**

3.1 In August 2009 Cabinet was provided with details of the proposals for the commissioning of pre-construction and the main works for the rebuild of Walderslade Primary School. At this meeting Cabinet made a number of recommendations, which have been progressed as follows:

a) Authorise the Director of Children and Adult Services in consultation with the Portfolio Holder for Children's Services to appoint the recommended preferred bidder for pre-construction works, using the contract form specified by the IESE framework;

This has been undertaken using the IESE Pre-Construction Agreement. Mansells Construction Services Ltd were appointed the preferred bidder to undertake Pre-Construction works providing services that included the following:

- Advising the team on the practical implications of the design proposals
- Assessing Buildability issues
- Developing a cost plan by adding in preliminary costs and benchmark data.
- Advising on supply chain strategy
- Producing of individual package tender reports

b) Delegate authority to the Director of Children and Adult Services in consultation with the Portfolio Holder for Children's Services to make any appropriate linked contractual arrangements with preferred bidder and third parties;

In developing the proposals a number of other contractual arrangements were identified as being required. These were

- Appointment of EDF to carry out the relocation of power cables to allow the new build to be undertaken.
- Commitment to Highways to appoint a consultant to review the design adjacent to the highway

c) In the event that the preferred bidder is unable to deliver, delegate authority to the Director of Children and Adult Services in consultation with the Portfolio Holder for Children's Services to appoint the reserve in their place

The successful appointment of Mansells Construction Services Limited as the preferred bidder and their delivery to date has meant that there has been no requirement to appoint a reserve.

d) Delegate authority to the Director of Children and Adult Services in consultation with the Portfolio Holder for Children's Services to

commission where there is a clear economic advantage, early works packages to a maximum aggregate value of £500,000;

Temporary classrooms were installed and the school was decanted into this accommodation over the summer of 2009.

- e) Delegate authority to the Director of Children and Adult Services in consultation with the Portfolio Holder for Children's Services to appoint a second stage contractor for the main works, subject to
- i. A Gateway 4 review of the first stage contractor's performance
  - ii. A satisfactory price and appropriate terms and conditions being negotiated
  - iii. An evaluation of the proposed contract form to be used
  - iv. A cost report being prepared by a suitably qualified Quantity Surveyor; and
  - v. Officer Scrutiny Panel review of contractor's proposals, evaluation of the contract form and the cost report prior to exchange of contracts

These points are covered in detail in section 3 of this report.

As Walderslade represents the first major project in the Council's Primary Capital Programme the Director of Children's Services in consultation with the Portfolio Holder for Children's Services wish to keep Cabinet informed of the progress on this project.

#### **4. Appointment of a second stage contractor**

- 4.1 Following approval by Cabinet in August 2009 Mansells Construction Services were appointed for the pre-construction phase of the project.
- 4.2 The pre-construction duties to be undertaken include:
- Contractor advising the project team on the practical implications of the design proposals. This may include the involvement of specialist subcontractors.
  - Contractor assessing buildability issues. This is to advise design, lead times, construction sequence and site arrangements.
  - Contractor developing a cost plan where the contractor adds preliminary costs and benchmark data from the specialist supply chain. This plan is shared with the Council and its advisors. This open process is expected to engender a team approach and avoid later conflict on the build up of costs.
  - Contractor to advise on a supply chain strategy, the execution of advance works, advance orders, the breakdown into suitable packages and manage the subcontractor enquiries and tender evaluations on an open book basis. The Council's project team and contractor agree on subcontractor selection prior to entering into contract. The contractor's surveyor and the Council's quantity surveyor then collaborate to build up to an agreed contract sum.

- Contractor producing individual package tender reports where preferred subcontractors are recommended. The reports clearly state any qualifications and outstanding queries for clarification prior to entering contract. The contractor and the Council's project team will undertake value management exercises to test proposals and generate savings. A final tender report is then agreed by the contractor's surveyor and the Council's quantity surveyor. This includes a contingency sum and provision for any outstanding contract risks to be managed.

4.3 During this pre-construction phase on the Walderslade scheme the following issues were identified:

- Geography of the site including steep gradient in two directions (requiring significant groundworks and retaining structures)
- Single aspect (requiring roof lights and atriums to provide lighting and ventilation to make spaces useable)
- Restricted access, small site footprint and occupied site (requiring several phases and increased temporary accommodation)
- Complex site conditions (meant original modular proposal was not a feasible option and maximisation of building footprint was not achievable)
- Planning constraints limiting height (meant the most cost effective design of a simple compact 2 storey structure throughout could not be achieved)
- Additional external works over and above initial allowances to mitigate some of the limitations of the school site
- National requirement to include a sprinkler system in all new school buildings
- Provision of a renewable energy source (photovoltaic cells incorporated)
- BREEAM assessment and requirement to achieve "very good" rating.
- Imminent changes in Building Regulations in 2010 (initiated inclusion of new requirements to be designed in to future proof the building)

4.4 Mansells Construction Services on appointment have successfully integrated into the project team providing much needed input to progress some of the complex design and buildability issues described in the paragraph above.

4.5 When procuring a preferred contractor for the pre-construction phase the Council indicated to all bidders that the likely cost for construction works, excluding any enabling works, would be in the range of £3.25 to £3.75m and these were the figures used as a basis for evaluating the first stage returns.

4.6 Upon completion of the pre-construction phase Mansells Construction Services Limited have provided a cost for the works of £4.62m. Mansells have provided their submission based on the project approved by planning, on a 68 week programme, commencing on 6 April 2010. The cost provided is higher than the estimate shown in 4.5 as a result of the issues identified during the pre-construction phase described in paragraph 4.3.

- 4.7 Faithful+Gould were appointed as quantity surveyors in September 2009 and have produced a trade package estimate (cost report) for the second stage works. This is being used to benchmark the costs being provided by the Contractor. This cost report includes a figure of £4.73m for the construction costs. The cost provided by Mansells is therefore lower than the cost estimate provided by Faithful+Gould.
- 4.8 Faithful+Gould are undertaking a final review to confirm whether the figure provided by Mansells should be the one used as the contract sum. Initial indications are that the recommended contract sum will be marginally lower than this figure.
- 4.9 In their cost report Faithful+Gould have also estimated the total anticipated fees and sundry costs at £0.78m, which means that the total anticipated project cost estimate is £5.51m.
- 4.10 Funding for the Walderslade building costs will be met from the allocated Primary Capital Funding from the DCSF, which has been confirmed at £3.4million for 2009/10 and £5.8million in 2010/11.
- 4.11 In addition to this funding, the Council will be utilising funding from a number of other sources to top up the overall funding available for the Primary Capital Programme.
- 4.12 The funding streams are as set out below:

<b>Primary Strategy Programme (inc Feasibility) – 2009-2010</b>	
New Pupil Places	1,050,000
Extended Schools Grant	150,000
Modernisation	1,000,000
	<b>Sub-Total</b> <u>2,200,000</u>
Primary Strategy for Change	3,378,830
	<b>Total 2009-2010</b> <u>5,578,830</u>
 <b>Primary Strategy Programme (inc Feasibility) - 2010-2011</b>	
Modernisation Borrowing Approval	494,805
Modernisation Grant	1,710,643
New Pupil Places- Basic Need Borrowing Approval	994,552
Extended Schools Grant	150,000
Targeted Fund for SEN	1,000,000
	<b>Sub-Total</b> <u>4,350,000</u>
Primary Strategy for Change	5,781,830
	<b>Total 2011-2012</b> <u>10,131,830</u>
	 <b>Total</b> 15,735,660

- 4.13 This gives an overall fund of £15.7million for the Primary Capital Programme, which has been approved by full Council. Primary Capital Projects beyond this date will be funded by future allocations and funding sources. Despite the overall increase in the project value, this is still affordable within the overall capital programme.

## **5. Management of the Contract/ Benefits Realisation**

- 5.1 Mansell's services have been procured to date using the IESE Framework on a first stage basis under a pre-construction agreement. They have therefore been able to provide buildability and cost/commercial support to the project as it has developed from initial design stage to a position where fixed prices could be sought from the market place.
- 5.2 The benefits of this initial limited financial commitment have been particularly relevant given the complexities of such a compact and steeply graded site.
- 5.3 Mansells proposals are based on the appointment in line with the IESE Framework which is the current JCT Design and Build form of contract. This is being reviewed in liaison with Medway's legal department to ensure incorporation of minor amendments to suit the specifics of this project.
- 5.4 Their initial successful input, along with the benefits accrued by procurement through the IESE Framework provides comfort that this is the best approach to take. Separately to Medway's internal Gateway processes, IESE Gateway processes are also being undertaken in line with their framework protocol. The first Gateway meeting was held on Tuesday 9 February with the entire project team. The KPI ratings to be achieved will be benchmarked against other IESE Contractors.

## **6. Performance and Change Management**

- 6.1 Walderslade is the first school re-building project within Medway's Primary Capital Programme. The IESE Framework under which it is being procured provides for a Continuous Improvement Plan and this will be part of the regular reporting and gateways that are in place for the entire duration of the contract. These formal reviews and Medway's own internal reporting provides opportunities at key points within the project programme to formally review and document lessons learned. The process incorporates a procedure for disseminating these lessons to the wider group of stakeholders.

## **7. Next Steps**

- 7.1 Contract documents now need to be finalised to enable contract exchange to take place. Following contract exchange the contractor will mobilise. Because of the compact nature of the site and limited access arrangements the start on site will need to coincide with a holiday period. This will give the contractor a sufficient period to re-arrange access to ensure there is absolute separation between the construction works and the school. The school is keen for this start to take place in the Easter holidays and the project team are working to

achieve this date. The need to complete all necessary contract documentation and provide the contractor adequate time to mobilise may mean that this is not achievable and a start on site commences at the summer half term.

## **8. Comments of the Portfolio Holder for Children's Services**

- 8.1 Walderslade Primary School is the first school re-building project within Medway's Primary Capital Programme. Walderslade is currently based in temporary buildings, some dating back to 1908. Replacing the building is therefore an early priority for the use of Primary Capital funding.
- 8.2 The works involve the construction of a one form of entry primary school, to replace the existing building at the existing site of Walderslade Primary School on Dargetts Road, Walderslade as well as a new nursery facility.

## **9. Procurement Board**

- 9.1 The Procurement Board considered this report on 17 February 2010 and considered that the original contract award delegation to the Director of Children and Adults was based upon a projected expenditure range of £3.25 million - £3.75 million. Procurement Board considered that as the revised projected expenditure was above this original expenditure range, the original delegation criteria had not been met and therefore this was a matter for Cabinet. Procurement Board advised that the Director of Children and Adults, to whom this delegation was sanctioned by Cabinet, should return to Cabinet with this report so that Cabinet can make an informed decision on how to proceed.

## **10. Financial, Legal and Procurement comments**

### Procurement Comments

- 10.1 Strategic Procurement has provided quality assurance support throughout the procurement process and is satisfied that a robust and compliant procurement process has been followed.

### Legal Comments

- 10.2 A contract awarded under the IESE framework agreement will be compliant with both the EU procurement Regulations and the Council's Contract Rules. Proposed Contractor has been notified of required project specific amendments in relation to terms and conditions of contract and it is understood Contractor's proposals have been developed on this basis. It will however be necessary for the Client department to continue working with Legal to ensure final terms and conditions of contract are agreeable to Medway and accords with provisions of current EU rules when undertaking call-offs under a framework. Legal has been involved in Gateway review meetings so far arranged and will attend further Gateway meetings to be scheduled by Project Manager.

## Finance Comments

- 10.3 Despite the overall increase in the project value, this is still affordable within the overall capital programme due to a reduction in expected spend on other proposed schemes. This provides assurance that the scheme can be afforded within the Primary Capital Programme.

### **11. Recommendation**

- 11.1 The Cabinet is recommended to authorise the Director of Children and Adult Services, in consultation with the Portfolio Holder for Children's Services, to appoint Mansells as the second stage contractor for the main works.

### **12. Suggested Reasons for Decision(s)**

- 12.1 The above enables the project to proceed at the earliest opportunity. Delay to the project at this time will mean additional cost being incurred, continued occupation of temporary accommodation by the school, delay in commencement of works, and associated delay to completion.

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### **Background papers**

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

<b>Description of document</b>	<b>Location</b>	<b>Date</b>
Cabinet Report	Available	25/08/09
Trade Package Estimate No 1	Available	13/11/09
On going Procurement Recommendation	Available	04/12/09
Interim Tender Report	Available	16/02/10