

DEPOT CONSTRUCTION

Summary and Recommendations:

This report advises on the current position in relation to a Design and Build Contract for the build of the Council's new depot in Lysons Avenue, Ash Vale, both in relation to cost and timescales. Details of the actions taken are set out, leading to the recommendation that rather than continue with the Design and Build Contract with Kier Construction, a separate build contract be awarded to Neilcott Construction Ltd.

Cabinet is recommended to delegate authority to the Solicitor to the Council:

- To award a JCT Intermediate Building Contract for the construction of the depot to Neilcott Construction Ltd and to advise Kier Construction of the alternative award of the contract.
- Take all other steps necessary, including revising the form of contract with Neilcott Construction Ltd in the event that the novation of agreements between Kier Construction and their contractors is unachievable or is delayed.

1. Introduction

- 1.1 This report provides an update on the provision of the new depot to support the Waste, Recycling and Street Cleansing Contract (service contract) and seeks permission to award the construction of the new depot to Neilcott Construction Ltd who submitted the most economically advantageous tender, which is within budget.
- 1.2 This is a key decision due to the significant capital expenditure involved and potential impact on our residents.

2. Background

- 2.1 Starting from 31 July 2017, the Council have appointed Serco as its new service contractor. As part of the new contract, the Council agreed to provide a depot, which is essential for the operation of the services.

- 2.2 The service currently operates from a depot in Doman Road, Camberley, owned by Surrey Heath Borough Council (SHBC). Whilst the Council has occupied a portion of the site for many years, there is little security to the arrangement, as SHBC has never granted the council a lease for the site.
- 2.3 SHBC have advised that they will be redeveloping the site for their own waste partnership and have requested we vacate our area of the site by 1 February 2018. If we are unable to deliver our new depot by 1 February, SHBC have identified another area on the site for the relocation of our service contractor, which would be available until early 2019. We are awaiting further information from SHBC and having visited the site with Serco have agreed this is a suitable temporary location subject to some minor works, a requirement for temporary office accommodation and associated costs.
- 2.4 Cabinet agreed to purchase the Canna Enterprise Centre located in Guildford at Lysons Avenue, Ash Vale on 20 October 2015. Guildford Borough Council granted planning permission for the depot construction in November 2016. The former industrial estate has now been demolished and some site remediation undertaken.
- 2.5 Following a comprehensive tendering process, a Design and Build Contract was awarded to Kier Construction under a Hampshire County Council Framework Agreement. The agreement provided for the delivery of pre-construction services in relation to the provision of the new waste depot. This agreement contains a discretion as to whether to proceed with the building of the depot with Kier Construction and allows the Council to award the construction contract to another provider.
- 2.6 At the time of award it was anticipated that the successful service contractor would be able to mobilise on 31 July 2017 straight into the new depot, however, recognising timescales were tight it was appreciated that the new operator might have to operate at Doman Road for a short period.
- 2.7 Kier Construction provided a provisional figure as part of the Design and Build tender which Cabinet approved at its meeting in November 2016. The agreed budget is outlined in Exempt Appendix 1 to this report.
- 2.8 Cabinet were also informed that the exact costs would not be known until the design process was completed. Additionally, whilst significant contingencies were built into the budget, it was recognised that additional costs were still possible, particularly in relation to the wet ground conditions and possible land contamination.
- 2.9 Extensive borehole sampling was undertaken prior to the purchase of the site which showed some areas of contamination. Following demolition of the former industrial estate, small amounts of asbestos fibres have been found in some soil heaps following remediation work along with areas of buried asbestos and some hydrocarbon contaminants which have been treated accordingly. It is possible that as services are laid and underground tanks installed, that further asbestos contamination or

hydrocarbon contaminants could be discovered that will require remediation, with soil being removed from site.

- 2.10 In January 2017, at the completion of the design work, Kier Construction submitted a revised construction timescale, which showed earliest completion of December 2017, and a high-level budget significantly above the Council's budget and excluded any further site remediation. Given concerns that the price could increase further and that the completion date could be even later, DMB agreed that a separate construction tender be issued to two companies known to the Council (Neilcott Construction Ltd and Management and Construction Services Ltd) under Regulation 110(5)(b) of the Public Contract Regulations 2015. An exemption was granted under contract standing orders, as the opportunity was not advertised in contracts finder because the Council needed to work confidentially with the other invited tenderers. These tenders were returned on 19 May 2017.

3. Tender returns

- 3.1 The results of the tender returns, together with an analysis of Kier Construction's cost plan by the Council's quantity surveyor, MTPC, are included in Exempt Appendix 2.
- 3.2 The two closest tenders on price were also evaluated on cost, quality, and the estimated completion date. Management and Construction Services Ltd provided a completion date of 19 March 2018 with Neilcott Construction Ltd providing a completion date of 5 March 2018. Neilcott Construction Ltd has agreed that the completed depot could be handed over to the Council in stages to allow Serco to commence the fit out with an operational depot being available from early March 2018.
- 3.3 Kier Construction provided a construction cost included in exempt appendix 2, which was significantly above the comparable figure from Neilcott Construction Ltd who are the lowest tenderer. Keir Construction has given a completion date of week commencing 5 February 2018. The fit out by Serco will take a further 4 weeks with an operational depot being available from early March 2018
- 3.4 Therefore, it is recommended that the contract for the build is not awarded to Kier Construction following on from the Design and Build Contract and that the build contract is instead awarded to Neilcott Construction Ltd.

4. Implications

Risks

- 4.1 The Council is contractually bound to provide a depot to enable the delivery of the Waste, Recycling and Street Cleansing Service Contract and the Council's current site at Doman Road will cease to be available on the timescales set out above.

- 4.2 Neilcott Construction Limited's timetable for the build shows a completion due on the 5 March 2018. The risk of not having an operational depot has been mitigated by Neilcott Construction Ltd agreeing that the new depot could be handed over to the Council in stages to allow Serco to commence an earlier fit out. The arrangement with SHBC to move to another part of the Doman Road site beyond February 2018 provides additional mitigation of the risk. If this was needed then there are likely to be additional costs associated with providing temporary accommodation. A further report would be brought to Cabinet if we were unable to secure our existing site for longer or bring the completion date for the new depot to 1 February 2018.

The Council will be liable for the rent (£8.5k pm) at the Doman Road depot and for a payment to Serco (£4.6k pm) for operating from the Doman Road depot rather than the new Council depot, from 31 July 2017 up to the end of December 2017 and this is covered in budget. A supplementary estimate will be submitted for any additional rental and payment to Serco after December 2017.

- 4.3 Whilst every attempt has been made to understand the extent of contamination on the site and steps have been taken to decontaminate known problem areas prior to construction, the full extent of buried asbestos and hydrocarbon contamination will not be known until excavation of foundations, drainage and services begin.
- 4.4 Given the number of locations where asbestos has been identified it is likely that further contamination will be found when the site is levelled for construction to start. The recommended construction contractor is aware of the above issue and will provide a small provisional sum to deal with some asbestos encountered. Any further contamination that is found will require remediation, which could affect timescales. The associated costs of any further contamination will be the responsibility of this Council for which reasonable contingencies have been set aside as shown in Exempt Appendix 2. Once excavations and drainage are completed, the entire site will be capped with a concrete hardstanding thereby providing a barrier between any remaining contaminants and site users.
- 4.5 Other risks include adverse weather conditions during the winter affecting the build period; agreeing the novation of agreements with Kier Construction and securing adequate service supplies with the statutory undertakers to enable the build to commence on time.

Legal Implications

- 4.6 The General Power of Competence under the Localism Act gives the Council power to do anything that an individual can do and thus the Council has power to construct new buildings required in connection with its waste service. The Council also has a duty to collect domestic waste under the EPA 1990 and therefore the provision of the depot is ancillary to the discharge of this duty.

- 4.7 The Council initially used the Scape Framework (single supplier) to seek a pre procurement budget figure from Kier Construction for the design and construction. This was significantly above our original estimated budget and to ensure best value it was agreed to use the Hampshire Framework to obtain competitive quotes. At the time this demonstrated that the Kier Construction figure was the most economically advantageous. The design element of a Design and Build Contract was therefore awarded to Kier Construction but the contract does not oblige the Council to use Kier Construction for the construction. The Council was entitled to invite other tenders under Regulation 110(5)(b) of the Public Contract Regulations and the exemption under Contract Standing Orders from advertising the opportunity was given for good reason.

5. Financial and Resource Implications

- 5.1 The revised costs are shown in exempt appendix 2 and the most economically advantageous tender enables the Council to remain within budget with a reasonable level of contingency still available. Officers have worked to engineer out costs and to subject each element to competitive pricing. Conversely, whilst there are contingencies built in, it cannot be ruled out that there may be additional costs, particularly in relation to the discovery of further contamination, which due to the risk would be treated as a variation to the contract for both time and costs.

6. Conclusions

- 6.1 The build of the depot is essential to the future delivery of the service contract. Whilst it was anticipated that Kier Construction Ltd would undertake the construction, the cost of the build would be significantly over budget and therefore the contract should be awarded to Neilcott Construction Ltd for the reasons set out above. Whilst the Neilcott Construction Ltd tender is within budget, additional costs may be incurred if further contamination is discovered during construction. If this is the case a further report will be presented to Council.

Background Documents:

Waste, Recycling, Street Cleansing and Grounds contract
Draft depot lease
Tender documents
Planning application
Cabinet report 20 October 2015.
Cabinet report 15 November 2016

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