

North Somerset Council Decision

Decision Of: Director of Children's Services
With Advice From: S151 Officer and Head of Strategic Procurement
Directorate: Children's Services



Decision No: CY33 (2021/22 Scheme)

Subject: Contract award report for the site preparation works for the Winterstoke Hundred Academy Extension (WHAE).

This decision was listed on the forward plan as a decision of the Executive Member for Assets and Capital Delivery. In line with contract standing orders this is a decision for the Director of Children's Services.

Key Decision: Yes

Reason:

The value of the contract is greater than £500,000.

Background:

The Secretary of State for Housing, Communities and Local Government confirmed approval of North Somerset Council's Housing Infrastructure Fund (HIF) (Forward Fund) bid on the 26th November 2019.

The grant to NSC totals £97,067,550 and was agreed at the Full Council meeting on 16 June 2020. This grant is to deliver the infrastructure to facilitate the delivery of 7,557 new dwellings; specifically:

- A bypass around the village of Banwell, and
- Additional secondary school places

The secondary school places are to be delivered through the expansion of the existing Winterstoke Hundred Academy on to a second site at Locking Parklands.

The land for this expansion consists of two adjoining parcels of land site 1 and site 2. Site 1 is to be the location of the school building, sports hall and car park and site 2 the playing fields. The land is being provided to NSC under a S106 agreement by Homes England and St Modwen Developments Limited (STM). The terms of the S106 state that site 1 should be handed over to NSC with the following site preparation work having been completed:

- fully serviced - ready to enable the construction of buildings to include the provision of vehicle, cycle and foot access fully levelled site

- remediated of all land contamination
- drained and levelled
- provided with all services and utilities including Broadband, as agreed with the Council

Site 2 just requires the land to be drained and attenuated.

The approach outlined in this paper was supported by the HIF Project Board at the monthly project steering meeting on the 10th May as the preferable way forward.

In conjunction with the Ground Enabling works, there is an opportunity to de-risk the construction phase of the school programme and bring forward two construction work packages and include them as part of the enabling works. These packages include drainage and service ducts and the tarmac base course to the car park, Multi Use Games Area (MUGA) and hard play. In addition to the enabling works, adequate tree protection mitigation and transportation of excavated materials via the A371 have been added to the contract as contingent items, as they will depend on NSC's Planning requirements.

Decision:

To make a contract award to Kier Construction Ltd, Tempsford Hall, Sandy, Bedfordshire, SG19 2BD (company registration number 2099533) to undertake the site preparation works with a contract value of £1,448,618 and contract term of 4 months.

Reasons:

Introduction

The current owner of the site is St Modwen Developments Limited (STM) who are obligated under a S106 agreement to hand over the site to NSC for the development of the school with the site:

- fully serviced ready to enable the construction of buildings to include the provision of vehicle, cycle and foot access within a fully levelled site
- remediated of all land contamination
- drained and levelled
- provided with all services and utilities including Broadband as agreed with the Council

A limited window of time exists to undertake this work between the receipt of planning permission and the approval of a material management plan (MMP) in mid-September and the intended commencement of construction in November 2021.

In order to ensure the smooth delivery of the school within the programme time constraints, the project team recommends the appointment of Kier to undertake the site preparation / ground enabling works. As STM are obligated to undertake this work the NSC project team are in the process of implementing a legal agreement between NSC and STM to recover financial compensation for the works. Kier will then undertake these works on behalf of NSC. It cannot be expected that the sum recovered from STM will be the same as the cost of Kier undertaking the work. The reason for this is that site preparation / ground enabling works that Kier will undertake is more comprehensive than that which STM would be expected to undertake as part of their S106 requirements.

Alongside the Ground Enabling works, there have been some significant developments which have provided us with the opportunity to reprofile some work packages and protect the build programme further. To do this, we need to move some elements of work packages from the main JCT Design & Build contract and include them within the enabling works packages.

Instead of installing temporary drainage and surface ducts and hard standing areas for the enabling works, Kier have suggested we install permanent solutions required by the main build which would mean we save on the costs associated with the temporary solutions. This option has been assessed by the team and it does support programme de-risking at no additional cost.

The cost associated to reprofiling the works is £270,000. It should be noted that this is not an additional cost, rather this will reduce the main JCT Design & Build contract by £270,000 as the work will be completed at an earlier phase. Bringing this work forward will ultimately de-risk the construction phase of the programme.

Alongside the Ground Enabling works and reprofiled construction work packages, adequate tree protection mitigation and transportation of excavated materials via the A371 have been added to the contract as contingent items. They will depend on the outcome of the discussions between NSC's project delivery team and the relevant Planning Officers. In order to de-risk the programme, they have been included as part of this contract to avoid any delays if excavation via the A371 and tree protection is required by planning. However, if it transpires that these items are not required or are significantly reduced in scope, the cost reduction will be applied to the contract sum.

Commissioning Plan

The Commissioning Plan was approved at Full Council on 25th June 2019 (see Background Papers). The Procurement Plan was approved by the Executive Member for Assets and Capital Delivery on 6 August 2021 (see Background Papers).

Evaluation

Following the appointment of Kier under the Scape Minor Works Framework Agreement, Atkins who are to be appointed to undertake project management, technical advisor and quantity surveyor services to the NSC project team, will utilise the following processes and procedures to maintain cost certainty and best value:

- In conjunction with the contractor develop a works package breakdown structure and works package scope document for each works package, in order to avoid scope gaps and ensure successful allocation of the cost plan
- Split the target cost plan into a works package cost plan in order to track and manage the costs as the design develops
- Led by the contractor, agree a standard sub-contract tender package, the scope document, design responsibility, interfaces, drawings and specification. A list of tenderers would be agreed with the contractor
- The works package cost plan will be used to track and manage the costs as the design develops. At any point, if the works package cost allowances are likely to be exceeded, this will be reported, and they will work collaboratively with the contractor and project team to consider alternatives or other opportunities to value engineer cost reductions to maintain budget

- Works packages shall be competitively tendered in order to achieve a value for money outcome to a minimum of three sub-contractors for each trade package, unless otherwise agreed in advance by the project team.
- Tenders for each package shall be reviewed and analysed by the contractor, with a recommendation made for each works package in the form of a tender report. Atkins will undertake their own independent review of the tender returns following receipt of the contractor's recommendations.
- If at any time prior to the execution of a binding sub contract agreement, less than the original number of persons named in the tender list for that trade package are able to carry out the work, then the Contractor must notify the project team without delay. Further names shall then be added to the list so that the list comprises a number of tenderers of not less than the original number, unless agreed by exception
- Should the Contractor have their own resources (either directly or within another company of the Group of which they are a part) who can undertake work packages themselves then they shall be subject to the procurement rules above and shall submit a tender in competition with other subcontractors to provide the work packages
- The Contractor shall award each contract to the sub-contractor which has submitted the most economically advantageous tender on the basis of the award criteria specified in the sub-contract documents. If the lowest tender is not accepted, the contractor is to clearly explain why that is
- The Contractor's prelims and fee percentages will be checked to ensure they align with the framework agreement
- Contractor's risk allowances will be reviewed and agreed for each package, or as a whole
- At the same time as entering in to a binding contract with a subcontractor for any design work, or for construction work which includes an element of subcontractor design, the Contractor must procure completed collateral design warranties

Social Value:

Kier have committed to an extensive social value programme as part of the contract to design and build WHAE. This covers a variety of environmental, economic and community initiatives. Scape has a set of social value KPIs and therefore additional social value will be delivered via this contract, aligned with the Design & Build contract e.g. employing a Gateman on site.

Options Considered:

The alternative option is to leave the site preparation work in the hands of STM as per the existing S106 agreements. However, STM are a commercial developer involved in major construction projects in the area, and as such, the need to meet the stringent HIF programme milestones may not be a priority with all the other competing demands on their resources. Therefore, there is the potential for the work to not be commissioned or delivered at the pace that the WHAE programme requires. Additionally, this doesn't resolve the interface and work liability issues which would remain if an additional contractor undertook the site preparation work.

Regarding the construction phase work packages, an alternative option would be to include them in the construction phase of the school programme. However, there is an opportunity to include 2 work packages as part of the enabling works, which would reduce the pressure on the early stages of construction, thus de-risking the programme, and would also save the additional cost of installing temporary drainage and surface ducts during the enabling works.

Finally, a further option would be to not include the contingent items in respect of the transportation of excavated materials via the A371 and the tree protection costs. We are currently awaiting clarification from planning on the extent of tree protection and whether the excavated materials can be transported via the treeline between the school sites, rather than via the A371. Kier require 4 weeks to mobilise their sub-contractors to undertake this work. Therefore, until we have confirmation from planning regarding tree protection requirements and access to site 2 via the treeline, we have to proceed on the assumption that planning will require use of the A371 to transport materials between the 2 sites and that tree protection will be required. If these contingent items were not included, but were subsequently required, it would have a significant impact on the programme due to Kier's lead-time for procuring sub-contractors.

It is important to note that contingent items included in the contract will be reviewed once Planning have confirmed their position and will ultimately be amended to reflect the level of work undertaken by the contractor.

Financial Implications:

Costs

The cost of the site preparation / ground enabling works are £1,448,618. The indicative budget for these works was £1,000,000 however please note that the revised total includes the work packages being brought forward and the contingent items, namely the drainage and service ducts (£160,000), the tarmac base course (£110,000), accessing site 2 via the A371 (£150,000) and the tree protection (£30,000). The total also includes a 2.50% allowance for Risk, to cover variables relating to design, quantity, weather and rock and £5,520 for fees relating to the Principal Designer and preparation of the Bill of Quantities. The costs have been reviewed and approved by the Employer's Agent (Faithful & Gould) working on behalf of NSC. The total cost is broken down as per the table below.

| Task | Cost |
|--|-------------------|
| Preliminaries & Insurance | £128,011 |
| Filling and tarmac | £416,274 |
| Reduce levels and excavation | £379,294 |
| Fencing/Attendances/Facilities/Logistics | £282,759 |
| Drainage | £130,125 |
| External Services (ducting only) | £21,804 |
| Design fees | £5,520 |
| Risk | £30,756 |
| Overhead + Profit (2.90%) | £40,826 |
| SCAPE Framework Fee (0.95%) | £13,248 |
| TOTAL | £1,448,618 |

At the end of July some exploratory holes were dug to expose the bedrock to enable its consistency to be examined. This examination confirmed the cost associated with its extraction. Information from local groundwork companies who have experience of working this rock has been used to create the estimate for these works. As such we have a high degree of confidence in the cost provided however it is worth noting that this exercise is taking place which may increase (or decrease) the cost.

One of the first tasks to be undertaken when work commences are tests to ensure the ground does not require remediation. Some tests have already been undertaken and not shown any areas of concern. The costs of these tests are included in the preliminaries shown above. Although unlikely, the potential does exist for contamination to be discovered and the remediation costs would need to be added to the scope of work.

Funding

The proportion of the HIF funding for the construction of the school is £30,347,175. £1,771,093 of this has been allocated so far, leaving £28,576,082 to pay for this project.

It should be noted that this work is not unexpected and is required to facilitate the construction of the school and has been accounted for in the project budget. St Modwen and Homes England are obligated to undertake a portion of the site preparation works as part of their S106 obligations and the NSC team have agreed a compensation sum with both parties of £415,000.

Legal Powers and Implications:

The Site Preparation works have been procured via the SCAPE Minor Works Framework, which is a single supplier framework procured in accordance with the Public Contract Regulations 2015.

The works will be delivered via a NEC3 Engineering and Construction Standard Contract April 2013.

Contract Management:

The contract will be managed by the NSC WHAE project team with oversight and support from the Head of Major Projects and supported by the Employer's Agent who will provide a qualified NEC 3 project manager, technical advisor and quantity surveyor.

Performance will be measured by ensuring the project is delivered on time, within budget and to the quality required. Since Kier are already delivering the design element of the school, monthly meetings with agreed agendas are already taking place, and there are regular progress updates to the HIF Steering Board.

Climate Change and Environmental Implications:

As well as ensuring the most competitive price for the work Kier have attempted to ensure the work is undertaken by a suitably qualified groundworks company from as local as possible to the site to minimise the distance heavy machinery needs to be moved.

A component of the work involves the moving of spoil from one end of the site to the other attempts are being made to ensure that the lorries moving this earth can travel the shortest possible route minimising fuel use and associated pollution (and cost to the council).

Consultation:

Extensive consultation has been undertaken with a variety of stakeholders in advance of this work being undertaken and the construction of the school commencing. Examples of this are outlined below:

- Quarterly updates to the Locking Parklands Stakeholder Group – a forum of local residents, churches, community groups, schools and businesses with an interest in the developing Locking Parklands community
- Parish Council presentations – Banwell, Locking and Churchill
- Open consultation – 21st April we held an online presentation on the development of the school which was open to anyone to watch and ask questions after

Risk Management:

The land transfer arrangements proposed in this paper offer a significant risk reduction benefit for the project, principally in relation to the programme.

Risks associated with quality are also reduced with the site preparation being undertaken by the school contractor.

As has been explained there is an existing requirement for STM to undertake a degree of site preparation prior to handing over the site to NSC for the construction of the WHAE. The NSC WHAE team believe however it is preferable to take control of the site preparation work and for it to be delivered by Kier, their design, and probable, construction contractor (pending Executive decision in October 2021). This approach will minimise risk to the project programme in the following ways:

1. Ensure the work is undertaken as soon as is practical (once planning permission is secured, and a Material Management Plan is in place).
2. Ensure the work is undertaken to the required standard first time – avoiding the potential for the need to rework the site, with resultant delays and abortive costs.
3. Avoids interface and work liability issues as the school contractor would be solely responsible for the continuum of works from site preparation to construction completion.
4. Enable construction work packages to be brought forward, de-risking the WHAE programme

Equality Implications:

A full equality impact assessment is currently being undertaken as part of the school design work.

Corporate Implications:

The provision of key enabling infrastructure and educational facilities and the improvement of the transport network widely supports the Corporate Plan objectives in all areas of Prosperity and Opportunity, Health and Wellbeing and Quality Place.

APPENDICES

None.

BACKGROUND PAPERS

Procurement plan Winterstoke Hundred Academy Design & Build Contract
<https://www.n-somerset.gov.uk/sites/default/files/2020-09/20-21%20DE123%20signed.pdf>

Commissioning plan
<http://apps.n-somerset.gov.uk/cairo/docs/doc29685.pdf>

Acceptance of HIF Forward Fund Grant Heads of Terms with Conditions
<https://apps.n-somerset.gov.uk/Meetings/document/report/NSCPM-38-570>

HIF Business Case Development and Submission approval
<http://apps.n-somerset.gov.uk/cairo/docs/doc28834.pdf>

Contract award report for the Design of the Winterstoke Hundred Academy Extension
<https://www.n-somerset.gov.uk/sites/default/files/2020-12/CY11%20signed.pdf>

Procurement plan Winterstoke Hundred Academy Expansion Site Preparation/Enabling Works
<https://www.n-somerset.gov.uk/sites/default/files/2021-08/DP141%20signed.pdf>

Signatories:

Decision Maker(s):



Signed:

Title: Director of Children’s Services

Date: 15.9.21

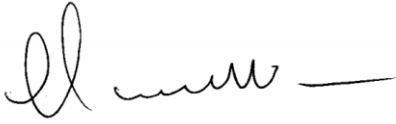
With Advice From:



Signed:

Title: S151 Officer

Date: 15.9.21

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by several loops and a horizontal line at the end.

Signed:

Title: Head of Strategic Procurement

Date: 15.9.21

Footnote: Details of changes made and agreed by the decision taker since publication of the proposed (pre-signed) decision notice, if applicable: