

Supplementary Committee Agenda



Epping Forest District Council

Cabinet Monday, 15th December, 2014

Place: Council Chamber, Civic Offices, High Street, Epping

Time: 7.00 pm

Democratic Services: S. Tautz, Governance Directorate (Tel: 01992 564180)
Email: democraticservices@eppingforestdc.gov.uk

10. ANY OTHER BUSINESS

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council Procedure Rules contained in the Constitution require that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

In accordance with Operational Standing Order 6 (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee concerned and the Chairman of that Committee. Two weeks' notice of non-urgent items is required.

10.a Epping Forest District Museum - Tender For Main Building Contract (Pages 3 - 14)

(Leisure and Community Services Portfolio Holder) To consider the attached report (C-053-2014/15).

10.b Exclusion of Public and Press

Exclusion

To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Information Paragraph Number
11a	Epping Forest Shopping Park – Legal Structure	3

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Confidential Items Commencement

Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers

Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

10.c Epping Forest Shopping Park - Legal Structure (Pages 15 - 120)

(Asset Management and Economic Development Portfolio Holder) To consider the attached report (C-054-2014/15).

Report to the Cabinet

Report reference: C-053-2014/15

Date of meeting: 15/12/2014



**Epping Forest
District Council**

Portfolio: Leisure and Community Services

Subject: Epping Forest District Museum – Tender for Main Building Contract

Responsible Officer: Julie Chandler (01992 564214)

Democratic Services: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

(1) That Coniston Limited be awarded the main building contract for the Epping Forest District Museum re-development project, being the best Tender received, based on quality, price and historic building experience (as demonstrated by the outcome of the Price/Quality Tender Evaluation reproduced at Appendices 1&2), with a corrected Tender Sum of £1,470,000; and

(2) That Cabinet notes that the Tender Sum for the Museum building contract is £345,000 above the original estimate for the works (at November 2012) and approves a virement of this amount from the Bridgeman House capital allocation originally proposed for the purchase of the Second Floor premises of 37, Sun Street, Waltham Abbey), to finance the shortfall after allowing for external funding.

Executive Summary:

Six contractors with relevant historic building experience were sourced via Construction line and invited to submit pre-qualification questionnaires (PQQs) for the Main Building Contract for the Museum Re-development, in accordance with Contract Standing Order C7 (5)(a), which requires a minimum of five tenders for works above £250,000.

However, as stated in the Leisure and Community Services Portfolio Holder Report of 13th November, two of these contractors unfortunately did not meet the Council's recently reviewed financial assessment criteria, resulting in them being excluded from the Tender List. This left only four contractors to tender for the building contract. A decision was therefore taken by the Portfolio Holder, to waive Contract Standing Order C7 (5)(a).

The closing date for receipt of tenders for the Museum Project was originally 27th November 2014. However, following requests from a number of tenderers to be given more time to submit their tenders, and in order to maximise the number of tenders received at a time when many contractors are declining the submission of tenders due to workload, an extension of time was given to 1st December 2014 and as anticipated, the remaining four contractors submitted tenders for the building contract. The Leisure and Community Services Portfolio Holder received and formally opened these tenders, on 2nd December 2014 in accordance with the Council's procedures. However, one of these tenders was subsequently rejected as it was not compliant with the Tender Specification, due to omission of the required 'Quality' information.

Reasons for Proposed Decision:

Due to the long delays experienced in relation to the Museum re-development project, the Heritage Lottery Fund require the main building works to commence without further delay, or the Council may be at risk of losing this funding.

Other Options for Action:

- 1) To further revise the specification. This would be at the risk of being detrimental to the overall priorities of the project and therefore unacceptable the Heritage Lottery Fund.
- 2) To re-tender for the works, at the risk of tenders being the same, or above those already submitted.
- 3) Either of the above options would be at risk of the Heritage Lottery Fund deciding to withdraw the £1,650,000, which would be a loss of both revenue and capital funding to the district.

Report:

1. The Council was successful in securing £1,650,000 from the Heritage Lottery Fund (HLF) in March 2013, which included £1,500,000 capital funding for the redevelopment and extension of the Council's Museum in Waltham Abbey and £150,000 revenue funding, for the provision of two new members of staff for a period of three years, to deliver youth volunteering and museum audience development work.
2. The capital funding allocated by the HLF for the Museum re-development includes;
 - The refurbishment of the existing building, which is part Tudor and part Georgian and re-modelling of the Tudor area, so it will return to how it would have been in its original state, therefore providing added interest to the Museum building itself;
 - Purchase of a long lease (984 years) on the new first floor premises at 37 Sun Street (adjacent to the museum) to enable the relocation of the Museum's reserve collection from Langston Road Depot in Loughton. This is in order to free up the depot for re-designation as a commercial site and for the collection to be stored and displayed on the main Museum site;
 - Re-design of the entire buildings and galleries, to provide opportunities for commercial hire of temporary exhibition space and essentially, to provide step-free access across the whole site, enabling it to be fully accessible and Disability Discrimination Act (DDA) compliant.
 - Provision of an education and community room, which will be available for the local community use as a community hub and available to rent for a variety of functions, and for museum based activities, and,
 - A volunteer working area, where volunteers will support the range of work of the museum, both within the building and services delivered on an outreach basis.
3. The Council contributed £250,000 towards the purchase of the long lease on the premises at 37, Sun Street, as stated above and this was on the basis of the opportunities arising from the potential commercial development of Langston Road Depot.

4. At the outset of the project in early 2013, a series of long delays were experienced in relation to the legal agreement on the lease purchase of the new building, which is owned by Essex County Council. This put the project behind by approximately 18 months and resulted in the Heritage Lottery Fund requesting that the Council progresses with arrangements for appointment of required consultants and any other work possible, so as to reduce the impact on the building timetable. The Council therefore commenced with the recruitment and employment of the key consultants for the project, in October 2013.

5. During the last 12 months, the project has been developed up to the main building works phase and in September, six contractors with relevant experience were sourced via Construction Line and invited to submit pre-qualification (PQQ) questionnaires for the building contract. All six contractors completed the PQQ process, but unfortunately, on review of the PQQ submissions received, initially one contractor did not meet the Council's financial assessment criteria at the time. Subsequent to this, and at a very late stage in the process, a further PQQ was declined by the Council, following a review of financial assessment criteria to be used for all Council contracts in excess of £50,000 by Internal Audit, that was subsequently agreed by Management Board in October. This left only four contractors able to tender for the works, which would contravene the Council's Contract Standing Orders (CSO) C7 (5)(a).

6. Due to the tight timetable to tender the building contract, the Leisure and Community Services Portfolio Holder therefore took a decision to waive CSO C7, under the recommendation of the Director of Communities and after consultation with the Monitoring Officer and the Chief Financial Officer. The four Contractors invited to Tender were; Broadland Construction Ltd, Borrás Construction Ltd, NDB Construction and Coniston Ltd.

7. The closing date for receipt of tenders was originally 27th November 2014. However, following requests from a number of tenderers to be given more time to submit their tenders, and in order to maximise the number of tenders received at a time when many contractors are declining the submission of tenders due to workload, an extension of time was given to Monday 1st December and as anticipated, the remaining four contractors submitted tenders for the building contract. The Leisure and Community Services Portfolio Holder formally received and opened these tenders, on 2nd December, in accordance with the Council's procedures. The tenders have been checked for arithmetical errors by the Council's consultant quantity surveyor, who confirmed that all tenders were accurate in terms of financial calculations, although the actual Tender Sums have increased compared to those recorded at the Tender Opening, due to the effect of confirming a number of the provisional sums within the Pricing Schedule.

8. The agreed selection criteria was based on 50% price and 50% quality. An evaluation panel consisting of council officers and professional consultants previously appointed to the project, subsequently undertook a detailed evaluation and quality assessment of the tenders based on agreed weightings and criteria, as detailed in the attached document at Appendix 1. It was at this stage in the tender assessment process that one tender was rejected, as it was not compliant with the Tender Specification due to omission of all the required 'Quality' information.

Following this process, the remaining three Tenderers were invited to attend formal interviews as part of the quality assessment on Thursday December 4th, where they were also required to give a presentation and were assessed by the evaluation panel on the content of their tender and their ability to deliver the work required.

9. The evaluation panel then undertook investigatory site visits to buildings and facilities built or redeveloped by the three remaining Tenderers, in order to complete the quality

assessment of the tenders.

10. Applying the previously-agreed selection criteria set-out at Appendix 1, it is recommended that the contract be awarded to Coniston Ltd on the basis that their tender is the most economically advantageous tender. It is also worth noting that Coniston Ltd submitted the lowest Tender Sum and scored the highest within the Quality assessment.

11. Cabinet is however advised that, as expected, all of the compliant tender submissions for the work were above the original, estimated building contract (including the exhibition 'fit out') price of £1,125,000, which was originally determined in line with the Council's initial application to the Heritage Lottery Fund, in November 2012. However, the lowest tender is still £120,000 lower than the Consultant Quantity Surveyor's Pre-Tender Estimate of £1,590,000.

12. This additional amount can be attributed to a number of factors, particularly the protracted period of 18 months that it took to purchase the long lease of the premises at 37, Sun Street, owing to long delays associated with final agreement of the lease with Essex County Council. This delay resulting in significant increases due to rising costs of labour and materials over the 18 month period. Further to this, when engineers undertook preliminary uncovering works on the building, it was found that a range of unforeseen, additional works are required, in order to alter the Tudor and Georgian structure of the museum building, to make the facility fully Equality Act compliant. A further effect of these delays is that the main contract tenders have been invited during a time of a much more buoyant construction market than was the case in 2012, where many contractors in London and the South East are declining invitations to tender and those that do are often pricing high, due to the increased costs of their sub-contractors.

13. It should be noted, however, that officers and the appointed consultants undertook a very detailed cost saving exercise by reducing the overall specification for the works through the deletion of non-essential works, prior to this being provided to Tenderers. This included reducing the quality of proposed floor coverings throughout the buildings; omission of heat recovery mechanical fresh air ventilation to the activity room and galleries; omission of automatic opening vents and, reduction in the lighting specification for the building. This exercise reduced the pre-tender estimate of costs by around £80,000. It is the Project Management Board's view that it would not be possible to reduce the final specification further, without a significant and detrimental effect on the project.

14. An allocation of £654,000 is currently set aside within the 2014/15 Capital Programme which was originally intended for purchase of the second floor premises of 37, Sun Street. This was a Cabinet decision, based on a proposal to convert the space above the new premises of the Museum into small, start-up business units as a combined investment opportunity and as a measure to mitigate the potential of flooding from the 2nd floor into the Museum below. Unfortunately the purchase did not progress, due to the owners declining the Council's purchase offer. However, Officers are now investigating whether the Head Lessees will agree to the Council purchasing an area on the second floor of the building for use as office space.

15. This would accommodate some Community Services staff and would enable the first stage vacation of Hemnall Street Offices in Epping, with the remaining staff moving to the Civic Offices as the second stage, under the proposed rationalisation of accommodation at the Civic Offices, which is supported by the Finance and Performance Management Cabinet Committee.

16. Vacation of Hemnall Street Offices, has been put forward as an option for a potential medium to long term revenue saving for the Council, as the premises could be let

commercially (potentially achieving an rental estimate at around £100,000 per annum), or alternatively, be redeveloped as part of a whole site redevelopment proposal which could include Epping Sports Centre.

17. The Heritage Lottery Fund has been approached in regard to assisting with the unexpected shortfall, but is unable to increase the level of funding available to the Council for the project.

18. It is therefore proposed to vire £345,000 of the original allocation of £654,000 to the Museum project in order to enable the redevelopment works to progress. The remaining allocation of £309,000 is thought to be ample to cover the cost of purchasing the lease in respect of the office space on the second floor of Bridgeman House, if required, as well as resulting in a saving from the budget allocation that can be returned to the Council's capital balances; this would be subject to a further report in 2015.

Resource Implications:

The Heritage Lottery Fund has committed to support the Museum re-development project to a sum of £1,650,000, to include both revenue and capital funding. The Council has already committed £250,000 towards the purchase of the long lease of the premises at 37, Sun Street, Waltham Abbey.

Due to a number of factors as outlined in this report, the lowest actual Tender Sum for the building works associated with the project is £1,470,000, which leaves a shortfall of £345,000, which Members are asked to approve by means of a virement from an allocation set aside for the purchase of the second floor of Bridgeman House in Sun Street, Waltham Abbey, which is no longer required in its entirety.

Legal and Governance Implications:

The Council has legal contracts with professional consultants appointed to the project and the main building contract is subject to a JCT contract.

Safer, Cleaner and Greener Implications:

The redevelopment of the Museum fits within a strategy for the economic regeneration and sustainability of Waltham Abbey Town Centre, which has a range of benefits for people of all ages and abilities living in Waltham Abbey.

Consultation Undertaken:

A wide range of stakeholders have been consulted on the Museum project, including; The Heritage Lottery Fund, Museums in the East Region, Waltham Abbey Town Council, WA Town Centre Partnership, Arts Council England and local Heritage and Historical Societies.

Background Papers:

Cabinet Report March '13 – Recommending the Council's contribution to the purchase of the First Floor, 37, Sun Street
Leisure and Wellbeing Portfolio Decision December '13 – Ref. Appointment of Consultants
Leisure and Community Services Portfolio Holder Decision November '14 – Ref. Decision to waive Contract Standing Orders in respect of number of Tenderers.

Risk Management:

The main key risk for the project is potential loss of external funding secured from The Heritage Lottery Fund due to further delays with progress of works. This has been addressed by agreement on an extended date for commencement of building works.

The other key risk is that the final costs will be in excess of the original tender sum. This will be mitigated through the close monitoring of costs by the consultant quantity surveyor and the Project Management Board, chaired by the Director of Communities.

Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

One of the key priorities of the Museum Redevelopment Project is to provide step-free access across the whole of the museum building, in order to make it fully DDA compliant, by way of installing a lift, which will access all floor levels. This will enable the collections and temporary exhibitions to be accessed by people of all ages and abilities, many of whom will not have previously had this opportunity.

Therefore, this report serves to proactively enable the engagement of people with physical disabilities and those with limited mobility.

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APPENDIX 1

EFDC MUSEUM REFURBISHMENT – TENDER RETURN ASSESSMENT SUMMARY

Price Scores

The Price Score will be evaluated from the tenders submitted in accordance with the following process.

The lowest tender receives a Price Score of 10.

The tender sum rate submitted by each contractor will be divided by the lowest tender submitted. The resultant sum will then be multiplied by 50% to give a **Weighted Price Score**.

Example:
$$\frac{\text{Lowest Tender Sum}}{\text{Contractor A Tender Sum}} \times 10 \times 0.5 = \text{Weighted Price Score}$$

So if the lowest tender sum submitted is £1,000,000 and Contractor A submits a tender of £1,200,000.

Contractor A would score $(1,000,000 / 1,200,000) \times 10 \times 0.5 = 4.16$ which is Contractor A's *Weighted Price Score*.

Returned Tenders

Tenderer	Tender Return	Price Score Calculation	Price Score (weighted)
A			
B			
C			
D			

Quality Scores

Scoring

The scoring system for each question assesses the response provided by the Tenderer on a scale of 1 to 10. The criteria for awarding scores are set out in Table 2 below.

Table 1

Scoring Key		
Score	Response	Match to specification
0	Absent response	No information provided
1	Very poor response	Very poor response submitted for consideration
2	Poor response	Little evidence available
3	Very weak response	Some evidence but far too old / poor to meet requirement

4	Weak response	Does not / barely meets requirements
5	Moderate response	Will meet ' <i>basic</i> ' mandatory requirement but not any others
6	Basic response	Will meet ' <i>basic</i> ' mandatory requirement & suggestion of others
7	Good response	Will meet ' <i>all</i> ' requirements, mandatory and desired
8	Very good response	As 7 but ' <i>some</i> ' additional value above the basic requirement
9	Excellent response	As 7 but ' <i>significant</i> ' added value which would be very useful
10	Outstanding response	As 7 but ' <i>exceptional</i> ' added value above all expectation

APPENDIX 2

EFDC Museum - Main Contractor Quality & Price Evaluation Sheet

1. Quality Scores

Question	Question Summary	Weighting (%)	Contractor A		Contractor B		Contractor C	
			Score	Weighted Score	Score	Weighted Score	Score	Weighted Score
Q1	Proposed delivery programme	15%	9	1.4	7	1.1	5	0.8
Q2	Planning & managing the works	25%	9	2.3	9	2.3	4	1.0
Q3	Communication with Stakeholders	15%	5	0.8	8	1.2	3	0.5
Q4	Identity of Sub-contractors	10%	8	0.8	7	0.7	5	0.5
Q5	Proposed Team Structure	15%	9	1.4	7	1.1	7	1.1
Q6	References & Case Studies	5%	9	0.5	6	0.3	7	0.4
Presentation		10%	8	0.8	6	0.6	5	0.5
Site Visit		5%	9	0.5	4	0.2	7	0.4
Total			66	8.2	54	7.4	43	5.0
Quality Weighted Total				4.1		3.7		2.5

2. Price Score

Contractor	Tender Sum	Price Score
Contractor A	£1,470,000	5
Contractor B	£1,483,093	4.9
Contractor C	£1,625,281	4.5

3. Combined Quality & Price Scores

Contractor	Combined Price & Quality Score
Contractor A	9.1
Contractor B	8.6
Contractor C	7.0

The highest combined Price and Quality Score was obtained by Contractor A which is Coniston Limited

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