

Report to the Cabinet

Report reference: C-024-2013/14
Date of meeting: 9 September 2013



**Epping Forest
District Council**

Portfolio: Asset Management and Economic Development
Subject: Proposed Refurbishment of Bakers Lane Toilets Epping
Responsible Officer: Mike Tipping (01992 564280).
Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) That a tender by Amwell Construction Ltd., in the sum of £87,277.47 be accepted for the refurbishment of the Bakers Lane Epping Public Toilets including provision for a Changing Places Facility; and**
- (2) That Contract Standing Orders in relation to the procedure for inviting, receiving and opening tenders be waived in respect of this contract for the reasons set out in the report.**

Executive Summary:

This report describes the results of a tendering procedure carried out by Agents acting on behalf of the Council, and seeks retrospective approval to waive Contract Standing Orders in relation to the normal process for inviting tenders.

Reasons for Proposed Decision:

To enable the refurbishment project to proceed without delay and also to avoid jeopardising the grant funding received from Essex County Council for the Changing Places element of the refurbishment project.

Other Options for Action:

To set aside the tenders received and conduct a fresh tendering process in accordance with Contract Standing Orders. This would lead to further delays before the refurbishment project could proceed and also incur delays in terminating the contract for the existing Superloo in Buckhurst Hill which cannot be done until the Superloo currently at Bakers Lane can be transferred to Buckhurst Hill.

Report:

1. The Cabinet at its meeting on 3 February 2013 approved capital expenditure in the sum of £85,000 for the refurbishment of the public toilets in Bakers Lane Epping. This sum included £50,000 grant from Essex County Council for the provision of a Changes Places facility. Changing places facilities are for severely disabled people and their carers to use and incorporate devices such as lifts and hoists. The nearest changing places facility from Epping is 22 miles away.

2. Cabinet also approved supplementary DDF expenditure in the sum of £21,000 to relocate the Superloo in Bakers Lane to Buckhurst Hill.

3. In March 2013 the Portfolio Holder for Asset Management and Economic Development made a portfolio holder decision that in accordance with Standing Order C9 a negotiated contract be entered into with Beardwell Construction Ltd for the refurbishment of public toilets in Bakers Lane Epping, the value of the contract not to exceed £85,000.

4. This decision was made as there was insufficient time to allow for the normal tendering process whilst ensuring that the District Council secured the grant funding from Essex County Council. There was also a consensus between the County Council, the District and the Town Council that the project would proceed in the shortest possible time.

5. Stace LLP agents acting on behalf of the Council entered into negotiations with Beardwell Construction Ltd but could not achieve a tender price within the budget set by the Council or a figure that was close to it.

6. Stace sought alternative tenders from two other companies known to them as having undertaken similar projects or having the technical ability to undertake this refurbishment.

7. The outcome of the process is that Amwell Construction Ltd., has submitted the lowest price in the sum of £87,277.47. Stace also point out that this price makes no allowance for contingencies.

8. This figure exceeds the previously approved budget of £85,000 by just £2,277.47 In addition Stace LLP has recommended a small contingency sum of £2,000 should also be allowed within the project cost, making the total additional budget required of £4,280.

9. To avoid seeking supplementary capital budget it is proposed to fund this additional requirement from the capital contingency budget within the Planned and Preventative Maintenance Programme for 2013/14.

10. It is evident that the process has not been carried out in strict accordance with Contract Standing Orders in relation to the invitation, receipt and opening of tenders. Having said that it is clear that:

- (a) a competitive process has been undertaken;
- (b) the company now recommended is on Constructionline (one of the required alternatives within contract standing orders); and
- (c) a negotiated contract has been achieved within the spirit of the previous Portfolio Holder decision albeit with a different company.

11. The options open to the Council are, firstly to accept the process that has been undertaken and award the contract to Amwell Construction Ltd and approve the additional capital expenditure, or, secondly to set aside the tenders obtained by Stace LLP and start the process again in accordance with contract standing orders.

12. To start the process again will lead to further delays not only in starting the refurbishment project but also in terminating the existing contract for the Superloo at Buckhurst Hill which is to be replaced with the Superloo currently at Bakers Lane once the refurbishment of the toilet block has been completed. The saving on termination of the Buckhurst Hill contract will be £18,000 per annum.

13. There is no guarantee that the outcome of a fresh tendering exercise would achieve a tender price within the £85,000 budget approved by the Council.

14. On balance therefore it is recommended that to avoid further delay the recommendation by Stace LLP to award a contract to Amwell Construction Ltd in the sum of £87,277.47 be approved and that contract standing orders be waived in relation to this contract.

Resource Implications:

£85,000 approved Capital Budget for 2013/14. Additional capital budget of £4,280 required in 2013/14 to funded from capital contingency within the Planned and Preventative Maintenance Programme.

Legal and Governance Implications:

A competitive process has been undertaken but not in strict accordance with contract standing orders. However it is considered that best value has been obtained through the process that has been undertaken.

Safer, Cleaner and Greener Implications:

There are no specific implications.

Consultation Undertaken:

None.

Background Papers:

Tender report by Stace LLP.

Impact Assessments:

Risk Management

Refurbishment works to preserve the value and condition of a Council property asset.

Equality and Diversity

There will be a positive impact through the creation of a changing places facility especially designed for severely disabled people and their carers.

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No