

## **Report to the Cabinet**

**Report reference:** C-011-2016/17

**Date of meeting:** 21 July 2016



**Epping Forest  
District Council**

**Portfolio:** Asset Management and Economic Development

**Subject:** Epping Forest Shopping Park – Award of Construction Contract

**Responsible Officer:** Chris Pasterfield (01992 564124).

**Democratic Services:** Gary Woodhall (01992 564470).

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### **Recommendations/Decisions Required:**

- (1) That the tender of £10,218,000 from McLaughlin & Harvey Construction to carry out the construction of the Epping Forest Shopping Park in Langston Road be agreed;
- (2) That an increase also be agreed in the contract sum for Section 278 Highways works of £343,053 to the contract awarded to Walkers Construction on 11 January 2016;
- (3) To authorise the Director of Neighbourhoods, in liaison with the Asset Management and Economic Development Portfolio Holder, to agree any final variation to the Highways Contract subject to it being within the current capital budget for this element of the project; and
- (4) To note the current anticipated opening date for the Shopping Park is August 2017.

### **Executive Summary:**

This report advises Members on progress with respect to the development of the new Epping Forest Shopping Park in Langston Road, Loughton and associated works, as discussed at previous meetings.

The tender bid is below the previously estimated pre-tender cost of the Shopping Park construction works prepared by the Council's quantity surveyors, Ridge & Partners LLP, of £10,500,000. This cost was allowed for within the projections contained in the Development Appraisal approved by Cabinet on 11 June 2015.

### **Reasons for Proposed Decision:**

To award the main construction contract for the Shopping Park and agree a variation to the costs of the associated S278 Highways Work.

### **Other Options for Action:**

To not accept the tender from McLaughlin & Harvey Construction, which would delay the works being carried out and therefore the opening of the shopping park. Similarly, to not agree the increased provision for the Highways Works would delay the opening.

## **Report:**

### Procurement of EFSP Main Building Contract

1. The re-tendering of the main building contract was carried out under European procurement regulations - OJEU for a two stage tender. Following the PQQ (Pre Qualification Questionnaire) stage five companies were invited to participate in the second ITT (Invitation to Tender) stage.
2. Three tenders were received on 3 May 2016 from McLaughlin & Harvey Construction, RG Carter and Higgins Construction which was a four week extension of time from the original tender date following questions and representations from the tenderers. These tenders were evaluated by the Council's Project Architect (PRC), Project Manager (WYG), Mechanical & Electrical Engineer (Pinnacle), Structural Engineer (Pinnacle), Quantity Surveyor (Ridge LLP) and the Council's in house development consultant.
3. The three tenderers were interviewed by the Council's team on 26 May and RG Carter and Higgins Construction were made aware that their bids were non compliant as they included provisional cost sums relating to ground contaminates and retaining walls. Both companies were given until 1 June to amend their bids. Higgins did not amend their bid and therefore they were excluded but RG Carter did amend their bid and were therefore considered by the consultant team at a moderation meeting.
4. The consultant team scored Mclaughlin & Harvey's bid at 92% and RG Carters bid at 71%. This was largely due to the RG Carter bid being over £3million higher and also have a longer construction programme than the bid by McLaughlin & Harvey bid.
5. The standstill period ended on 20 June without any representations from the two losing bidders or any other party.
6. The OJEU process was supervised at all times by the Council's solicitors, DAC Beachcroft, who have a department specialising in public procurement and by the Council's internal Procurement Manager. A report is attached from DAC Beachcroft on the OJEU process and its outcome.

### Highways

7. The final technical approval is currently awaited from Essex Highways following discussions and amendments to plans and specifications by the Council's highways consultants, JMP Consulting.
8. These amendments are likely to add four weeks/previously 34 weeks, to the construction programme and some £343,053 to the tender price of £2,070,029 (total £2,413,082). This increase is largely attributed to Essex County Council constraining working hours and seeking increased areas and higher specifications. Walkers tender included a schedule of rates for specific works and therefore the Council's quantity surveyors, Ridge & Partners LLP were able to check this increase in detail.
9. It is unfortunate that Essex Highways were not able to provide this input prior to tendering of the contract as it has led to significant delay. The target start on site date is now Monday 11 July 2016.

### Marketing/Letting

10. Marketing of the scheme continues with strong interest from a number of quarters and

at this time there are no negotiations with discounter brands but there is wide interest from a number of different retail areas including fashion, toys, furniture, sports, outdoor activities and food. A number of Heads of Terms have been agreed and are in solicitor's hands to complete Agreements for Lease of the various units. A more detailed report was given to the Asset Management & Economic Development Cabinet Committee in Part II on 30 June.

#### Relocation of Other Users To Oakwood Hill Depot

11. Following an inspection by VOSA on 11 July the relocation of the Grounds Maintenance and Fleet Operations/MOT Services to the new depot is now complete and the Langston Road Depot is now vacated and ready for occupation by the contractor to begin works. The temporary licence to use the T11 site for car parking has been terminated effective on 31 July to provide vacant possession of this area.

#### Opening Date

12. A combination of the delay to the Highways Works and the previously reported need to repeat the tender for the main construction contract, as a result of the first "open process" procurement not attracting any bidders. This has led to a revised opening date of August 2017.

#### **Resource Implications**

On the 11 June 2015 the Cabinet agreed a comprehensive development agreement as part of the decision to buy out the Council's previous partner. The development agreement contained not only cost estimates for the construction of the Shopping Park and associated works, but also professional fees and the likely revenue to be generated by lettings. The increased cost of the Highways Work of £343,053 is offset by the saving of £282,000 on the main contract. Adequate provision exists within the Council's Capital Programme.

#### **Legal and Governance Implications:**

The Council has engaged legal advisors to support the procurement process. Although Cabinet will continue to receive regular progress reports, it is intended that the Asset Management Cabinet Committee has taken on the role of more detailed scrutiny of the project to ensure that good governance continues to be achieved.

#### **Safer, Cleaner and Greener Implications:**

Highways improvements will reduce congestion and emissions. Security at the shopping park will involve the use of ANPR and CCTV

#### **Consultation Undertaken:**

Essex County Council Highways.

#### **Background Papers:**

Report to Cabinet 20 July 2015.  
Report to Council 23 June 2015.

**Risk Management:**

The project is subject to constant risk management with a formal Risk Assessment Register reviewed regularly at Project Team Meetings.

# 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.

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This report deals specifically with the award of the building contract and therefore aspects such as the design have been dealt with in previous reports.

The tender process as described in the report was a two stage OJEU process overseen by a specialist solicitor from DAC Beachcroft to ensure that it complied fully with European regulations that the tender was open, fair and carried out without any discrimination.