

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 19 August 2016	<b>Decision Maker:</b> Strategic Director of Children's and Adults Services
<b>Report title:</b>		Gateway 2: Contract Award Approval: Bellenden Primary School	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Director of Regeneration	

## RECOMMENDATIONS

That the strategic director of children's and adults' services:

1. Approves the award of the design and build contract, for Bellenden Primary School to Morgan Sindall plc, for a contract period of 59 weeks, commencing on 05 October 2016 and completing on 13 December 2017, for a total contract value of £11,450,735, including:
  - The enabling works contract of £667,000, as set out in paragraph 9 of this report;
  - Variations to the Enabling works contract totalling £177,301 as set out in paragraph 10 of this report;
  - Main works of £10,606,434.
2. Approves the award of a Contingency sum of £440,766, as described in paragraph 49 of this report.
3. That the Strategic Director of Children's and Adults' Services approves the variations to the Pre-Construction Services Agreement (PCSA) with Morgan Sindall, totalling £60,557, as outlined in paragraph 11 and Appendix 1 of the closed version of this report, and a contingency value of £2,120. This gives the total value of the PCSA as £365,976.

## BACKGROUND INFORMATION

4. On 16 July 2013 Cabinet approved a primary school investment programme to address the shortfall in primary school places for a number of schools and sites which included Bellenden Primary School. It was envisaged that the works would be procured through the Improvement and Efficiency South East construction and management framework (IESE) and that the projects would be split into two packages.
5. On 22 July 2014 Cabinet approved the procurement strategy to appoint 2 contractors, one for Package A and one for Package B, using IESE. The contractor for each Package would carry out preconstruction services, the works and, where necessary, enabling works and these services and works would be approved in a

number of gateway 2 reports. It was approved by Cabinet that the decision maker for these Gateway 2 reports would be delegated to the Strategic Director of Children's and Adults Services (irrespective of their estimated value).

6. The development of Bellenden Primary School falls within Package B.
7. On 17 November 2014 the Strategic Director of Children's and Adults Services approved the appointment of Morgan Sindall plc to carry out the pre-construction services for Package B, under the Improvement and Efficiency South East (iESE) regional framework arrangements for construction and management using the two-stage Design and Build method.
8. The development of Bellenden Primary School includes the construction of a new two form entry primary school and nursery on the site of the former Wilkinson House residential care home (now demolished). The development comprises the erection of two storey buildings with external play spaces and Multi-Use Games Area (MUGA).
9. Planning permission was received for the Bellenden Primary School development in March 2015. In addition, and in order to progress with the programme for the works, an enabling works contract has been entered into with Morgan Sindall plc, as approved by the Strategic Director of Children's and Adults' Services in August 2015. The Enabling Works Contract for this work has now been completed, and included Site set up, readjustment of levels, pilling matt and piling attendance and piling works. The total value of the contract is £677,141 and had an initial term of 13 weeks.
10. Under Enabling Works 1, a number of variations were issued to Morgan Sindall plc. These are listed in Appendix 1 of the closed version of this report. The Enabling Works were completed in February 2016. There have also been additional costs for preliminaries post the Enabling Works Contract, which include the temporary site accommodation which has remained on site.
11. A number of further variations were also required to the Pre-Construction Services Agreement. A breakdown of these are included in Appendix 1 of the closed version of this report.
12. The main works contract is expected to complete in December 2017. In order to provide accommodation for the additional 1 form of entry for September 2016 and September 2017 (ie additional 60 children), a double stacked classroom unit has been provided on the existing school site. The approval for the contract to install the classroom units will be subject to a separate approval report.
13. The contract to be entered into at contract award will be the JCT 2011 Design and Build Contract with the council's standard and special amendments. This documentation has been subject to detailed review by Southwark Legal Services, with advice from external legal advisors (Sharpe Pritchard).
14. Approval was given to delegate the approval of budgets for individual permanent expansion projects within the programme in the July 2013 report to Cabinet.

### Procurement project plan (Key Decision)

15. The timetable of the procurement process for Bellenden Primary School is set out in the table below, and shows that the construction of the primary school is programmed to be completed in December 2017.

### Procurement project plan

Activity	Completed by/Complete by:
Forward Plan for Gateway 2 decision	August 2016
<b>Approval of Gateway 1 – Procurement Strategy Approval: Appointment of Contractors for Primary Expansion Programme</b>	22 July 2014
Approval of Gateway 2 (Pre-Construction Services): Contract Award Approval	17 November 2014
Contract Award (Pre-Construction Services)	26 November 2014
Approval of Gateway 2: Piling and Associated works at Wilkinson House	August 2015
CAB Review: Gateway 2: Contract Award Approval: Bellenden Primary School	26 July 2016
CCRB Review: Gateway 2: Contract Award Approval: Bellenden Primary School	04 August 2016
Notification of forthcoming decision – Five clear working days	22 - 26 August 2016
Approval of Gateway 2: Contract Award Report	30 August 2016
Scrutiny Call-in period and notification of implementation of Gateway 2 decision (5 clear working days)	31 August – 6 September 2016
Finalisation of contract terms	31 August 2016
Contract award (subject to sign-off by the Strategic Director)	7 September 2016
Add to Contract Register	September 2016
Contract start	05 October 2016
Contract date for completion	13 December 2017

### KEY ISSUES FOR CONSIDERATION

## **Description of procurement outcomes**

16. This procurement will lead to the delivery of the expanded 2 FE Entry Bellenden Primary School. The works consist of a complete new build and associated external landscaping, at a new site (former Wilkinson House care home, Dewar Street, SE15).
17. The project will address the condition and sustainability issues of the existing building through the provision of a new school, and will provide high quality learning and teaching environments for the staff and students of the new school.
18. Paragraphs 34 and 35 of this report outline the positive impact that the new school will have on the local community.

## **Key/Non Key decisions**

19. This report is for a key decision.

## **Policy implications**

20. The expanded Bellenden Primary School will help to fulfil Southwark's on going commitment to its community, helping to encourage improved educational attainment for the borough's children, and assist with the council's statutory duty to provide additional school places.

## **Tender process**

21. Morgan Sindall plc was appointed by way of a mini-competition, in line with the procedure prescribed by the iESE framework arrangements.
22. The procurement for Stage 1, pre-construction services followed the standard iESE two-stage approach, in which the contractor has the following core responsibilities:

### **Stage 1 (pre-construction)**

- Fully developing the design proposals from RIBA Work Stage E onwards
- Packaging and competitively tendering the works on an open book basis
- Submitting contractor's proposals and pricing document, including the proposed contract sum, for decision by the council.

### **Stage 2 (construction) – subject to a separate gateway 2 approval (this report)**

- Carrying out and completing the works in compliance with the contract documents

23. The Gateway 2 report for the award of the contractors for Stage 1 (pre-construction services) was approved in November 2014. That report detailed the evaluation method followed to award the most economically advantageous tender. From the Stage 2 process, the gateway 2 report as outlined in paragraph 9 of this report, was awarded for Enabling Works 1.

24. With this two stage approach to procurement, there is an expectation and likelihood that the contractor appointed for pre-construction services would be appointed for the works contract, subject to the formal decision of the contracting authority to proceed. Value for money is obtained through the application of competitively tendered framework rates for main contractor's core costs (i.e. management, design, certain preliminaries and overheads and profit) and by competitive tendering of the works packages by the main contractor.
25. This report deals with the second Gateway report to appoint Morgan Sindall plc for the main new build works. The design and specification for the project was developed by the consultant team under the direction of the council's Project Management consultants, Mace Limited, which together with the overall scheme proposals were issued to Morgan Sindall plc in the form of Employer's Requirements.
26. Following the process of design development and packaging of the scheme proposals, the contractor has obtained competitively tendered prices for the various packages which, together with their construction phase core costs (previously tendered and reported in the Gateway 2 for pre-construction services) combine to make up the proposed contract sum for the main works.
27. Morgan Sindall plc provided a detailed scope and cost breakdown for the main works in May 2016. This was reviewed by the consultant project manager, client design advisor and quantity surveyor to ensure that the works are those that are required and that the price is representative of the works being carried out.

### **Tender evaluation**

28. Discussions have been held between the contractor, council officers from Regeneration, Capital Works, and the design team to clarify a number of items in the proposed scope. These have been worked through to ensure that the council is satisfied before the main works can be awarded.
29. The submission has been considered by the Capital Projects team, the council's external legal advisor and external Cost consultant, against the council's requirements in order to ensure that it meets these, and the approval criteria in terms of value for money. The following key requirements have been met:
  - **Confirmation from the council's Cost Consultant that the project represents value for money** - The council's cost consultant has raised clarifications regarding the tender submission which have been worked through with Morgan Sindall. The council's external cost consultant has also reviewed comparative data with other providers, to ensure that the submitted rates are on market and are justified.
  - **The submission from Morgan Sindall satisfying the council's requirements** - The Employer's Requirements form a key document to be included in the contract, and the contractor's proposals respond to these

requirements to ensure that they are met. Morgan Sindall have proposed any items which will not meet the requirements as a derogation, alongside appropriate justification, for the council to consider. Morgan Sindall Ltd has proposed a small number of items, alongside appropriate justification, which vary from the ER's which have been agreed as acceptable.

30. The approval to enter into the contract with Morgan Sindall plc for the Design and Build of Bellenden Primary School (this report) is recommended.

**Plans for the transition from the old to the new contract**

31. Not applicable

**Plans for monitoring and management of the contract**

32. The project client, including the management and administration of the consultant and contractor appointments, will be run and resourced through the Regeneration - Capital Works team. MACE will act as Employers Agent on day to day issues with implementing the contract and reporting on the contractor's performance to Regeneration – Capital Works team. Progress with the contract works and performance of the consultant team will be subject to constant scrutiny and monthly formal review, including reviews on cost, programme and quality. The experienced officer client team will use a number of mechanisms for monitoring and controlling the financial and programme performance of the contract, including:

- Strategic cost plan, which will be regularly reviewed and updated
- Monthly financial statements by the consultant quantity surveyor/contractor
- Monthly appraisals of progress against the contract programme
- Monthly progress reports by:
  - The project manager/Employer's Agent
  - Main contractor
  - Other design consultants
- Monthly progress meetings on site
- Tracking and chasing actions on critical issues
- Weekly 'look ahead' meetings with principals / directors
- Periodic project team 'look ahead' workshops covering key phases of work and risks
- Risk and issues logs

33. Under promise 8 Education, employment and training of the Fairer Future Promises, the council has made a commitment to create 2,000 new apprenticeships by 2018. Taking in to account the value of this contract, the council will be seeking eleven apprenticeship places from Morgan Sindall throughout the term of this contract. These will be included within the contractual obligations and will be monitored in accordance with council policy and in the regular monthly meetings with the contractor.

**Identified risks for the new contract**

RISK	RISK LEVEL	MITIGATION ACTION
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RISK		RISK LEVEL	MITIGATION ACTION
1.	Contractor has inadequate resources and management arrangements to deliver the main works project	Low	Ensure prior to appointment – (1) that the contractor plans to deploy adequate resources and is willing to supplement additional resources to the project, if required. (2) that the contractor proposes to put adequate management arrangements in place to deliver the project.
2.	Construction delays on site and additional costs	Medium	Timely ordering of components with long delivery period. Ensure that site operations are thoroughly and realistically planned by the contractor. Regular monitoring of progress on site by the Clerk of Works.
3.	Default by key subcontractor/supplier.	Low	A select list of well established sub-contractors by trade maintained by the main contractor, which includes financial health checks and performance monitoring.

### Community impact statement

34. Generally the provision of additional school places, which this contract will ultimately provide, will have a positive impact on communities with increased provision of places in areas where they are in need. The proposals are consistent with promoting the safeguarding and well being of all local children and young people by providing sufficient school places to meet forecast need.
35. The project will provide a newly refurbished building and extension for the borough's children.

### Economic Considerations

36. Morgan Sindall plc will be expected to deliver direct benefits to the local community and local residents. It is proposed that these benefits will be delivered through some or all of the following possible means:
- Supply chain and procurement with local businesses;
  - Use of local labour and training initiatives, including a construction employment, skills and training scheme linked to the council's Building London Creating Futures programme, which aims to match local residents with

construction vacancies especially where these are linked to key development sites and regeneration activities;

- A commitment to construction apprenticeships in proportion to the size and scale of the development as agreed in the Partnering Agreement; and
  - Corporate social responsibility and sustainability.
37. Discussions have commenced to ensure that there is a coordinated approach to provide a number of apprentice positions across the expansion programme. The Contractor has had meetings with the supply chain to ensure this is implemented and a number of apprentices have already been appointed. Monitoring information will be required quarterly, to a standard format including basic equalities data.
38. Morgan Sindall have a dedicated Community Investment Manager, who supports the delivery of all KPI's in line with local obligations. The Community Investment Manager will liaise with the on-site team to enhance the opportunities to engage local communities. This can range from integrating their projects with curriculum delivery, through working with local providers (including JCP) to link job opportunities with local workless residents, to ensuring they recruit apprentices from the local area into their supply chain. This will be monitored in accordance with council policy.

### **Social Considerations**

39. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. Morgan Sindall plc will meet LLW requirements and contract conditions requiring the payment of LLW will be included in contract documents, which will result in quality improvements for the council. These should include a higher calibre of multi-skilled operatives that will contribute to the delivery of works on site and will provide best value for the council.
40. Pursuant to section 149 of the Equality Act 2010 the council has a duty to have due regard in its decision making processes to the need to:
- (a) Eliminate discrimination, harassment, victimisation or other prohibited conduct.
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not.
  - (c) Foster good relations between those who share a relevant characteristic and those that do not share it.
41. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The Public Sector Equalities Duty also applies to marriage and civil partnership, but only in relation to (a) above. This report sets out the considerations which have been given to the PSED General Duty, which the Strategic Director of Children's and Adult's Services should consider when making this decision.
42. As part of the procurement process and in line with recently introduced legislation the council now requires tendering firms and companies to confirm that they have



not engaged in blacklisting (meaning the systematic compilation of information on individual trade unionists and their use by employers and recruiters to discriminate against those individuals because of their trade union membership or because of their involvement in trade union activity). However, it should be noted that the procurement of the IESE framework pre-dates the introduction of the legislation and therefore the requirement had not been included at the pre-qualification stage blacklisting:

### **Environmental Considerations**

43. The completion of this procurement will create a new school which will demonstrate commitment to the carbon reduction measures required by Southwark council, through the application of design principles to manage the use of energy most efficiently.
44. The scheme will be achieving a BREEAM rating of Very Good for the New Build works.

### **Market considerations**

45. Morgan Sindall plc has over 250 employees and a national area of activity.

### **Staffing implications**

46. There will be no direct impact on staffing as a result of the award of this contract.

### **Financial implications**

47. This report is seeking approval from the strategic director of children's and adults' services to award the contract for the development works for Bellenden Primary School, to Morgan Sindall plc at a cost of £11,450,735.
48. This report also seeks approval to variations in the PCSA cost, totalling £60,557 plus a contingency sum of £2,120.
49. A contingency sum has been allowed for additional unforeseeable works costs at Bellenden School which is equivalent to 3.5% of total works cost, including the PCSA.
50. A breakdown of total works costs, including variations, being provided by Morgan Sindall, is given in Appendix 1 of the closed version of this report.
51. The construction cost for the project given in this report aligns with an up-to-date cost forecast for the overall programme produced for setting the budget.
52. Non-works costs relating to Bellenden School expansion project have been assessed in the sum of £653,864. This sum includes estimated capitalised salaries which equate to approximately 1.5% of works and PCSA costs. ICT costs relating to

the Bellenden school expansion project have been assessed in the sum of £49,652. Both non-works and ICT costs align with an up to date cost forecast for the overall programme produced for setting the budget.

53. Officers have worked with the external cost consultants to ensure that the works packages are competitive and represent value for money to the council.
54. The schools will be responsible for any on going revenue implications as a result of the expansion.
55. Staffing and any other costs connected with this contract will be contained within existing departmental revenue budgets.
56. The total estimated cost of contracts in this report can be met from existing identified resources as shown in the closed version of this report.

#### **Legal implications**

57. Pursuant to the Cabinet Report dated 22 July 2014 the decision maker for this report is the Strategic Director of Children's and Adults Services.
58. Please see the legal concurrent.

#### **Consultation**

59. The proposals have been subject to the decision making arrangements of the council's planning process, including consultation with relevant statutory consultees.
60. The headteacher of Bellenden Primary School has been involved in the design development process. Consultation has been carried out locally ahead of the statutory consultation being conducted through the planning process.

#### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

##### **Strategic Director of Finance and Governance**

61. The strategic director of finance and governance comments are shown in the closed version of this report.

##### **Head of Procurement**

62. This report recommends that the Strategic Director of Children's and Adults Services approves the award of the design and build contract for the main works at Bellenden Primary School, to Morgan Sindall plc. This contract is the second part of the award of the contract that follows pre-construction services and enabling works on the project following a mini-competition from the IESE framework agreement. The report confirms that within the two-stage the contractor is able to submit

proposals for the remaining main construction work for this project and that these proposals have been subject to analysis by senior council officers in conjunction with the councils external legal and cost consultants. The total contract sum is £11,450,735 and the report confirms that due diligence has been carried out to ensure that this figure offers value for money. The contract period is 59 calendar weeks and is scheduled to commence on 5 October 2016.

63. The report confirms the monitoring and management arrangements that will be in place during the life of the contract including how 11 apprentices taken on by the contractor to meet the councils Fairer Futures commitment will receive the necessary skills training.

#### **Director of Law and Democracy**

64. This report seeks the approval of the strategic director of children's and adults' services to the award of a design and build contract to Morgan Sindall Plc for Bellenden Primary School, the value of which will include the additional costs arising from the variation of existing contracts for pre-construction services and enabling works. The award decision is one which can be made by the strategic director in line with express delegation previously made by Cabinet.
65. As the contract relates to construction and its estimated value is over the relevant EU threshold, it is subject to the full application of the EU procurement regulations. However the IESE framework agreement (through which this appointment has been procured) was set up following an EU compliant tendering process, and therefore tendering and selection through this framework satisfies those EU requirements. The report advises that Morgan Sindall Plc has already been appointed for pre-construction services and enabling works following a mini-competition in line with the IESE framework arrangements. This is subject to certain conditions being met which are noted in paragraph 29.
66. Contract Standing Order 2.3 requires that no steps may be taken to award a contract unless the expenditure involved has been included in approved estimates, or otherwise approved by the council. The closed version of this report confirms the resource implications for this appointment.
67. The strategic director will be aware of the Public Sector Equality Duty (PSED) imposed by the Equality Act 2010, and when making decisions to have regard to the requirements set out in paragraphs 40 and 41. The strategic director is referred to the community impact statement at paragraphs 34 and 35 setting out the consideration that has been given to equalities issues, and to the consultation which has taken place (noted in paragraphs 59 and 60), all of which should be considered when considering approval of the proposed contract award.


#### **Director of Education**

68. This report recommends that the Strategic Director of Children's and Adults Services approves the award of the design and build contract for the main works at

Bellenden Primary School, to Morgan Sindall plc . The council has a statutory duty to provide primary school places in order to meet demand. As described in paragraph 4 of this report, on 16 July 2013 Cabinet approved a primary school investment programme to address the shortfall in primary school places for a number of schools and sites which included Bellenden Primary School. This report therefore confirms that the contract awarded to Morgan Sindall for the new build works will facilitate the additional form of entry at Bellenden Primary School that is required to meet school places.

**FOR DELEGATED APPROVAL**

Under the powers delegated to me in accordance with the Council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature .....  ..... Date... 12.09.16...

Designation ..... STRATEGIC DIRECTOR .....

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Cabinet report of 16th July 2013 – Primary Investment Strategy	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	Rebecca McTier – 02 7525 4808
Cabinet Report of 22nd July 2014: Gateway 1 Procurement Strategy Approval Appointment of Contractors for Primary Expansion Programme	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	Rebecca McTier – 020 7525 4808
Cabinet Report of 17 <sup>th</sup> November 2014 : Gateway 2: Appointment of Contractors for Primary Expansion Programme for Pre-Construction Services	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	Rebecca McTier – 020 7525 4808
Gateway 2: Piling and Associated works at Wilkinson House	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	Rebecca McTier – 020 7525 4808

## APPENDICES

Appendices
None

## AUDIT TRAIL

<b>Lead Officer</b>	Bruce Glockling, Head of Regeneration – Capital Works	
<b>Report Author</b>	Rebecca McTier	
<b>Version</b>	Final	
<b>Dated</b>	19 August 2016	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Head of Procurement	Yes	Yes
Cabinet Member	No	No
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	No
Corporate Contract Review Board	Yes	No
<b>Date final report sent to Constitutional Team</b>		26 August 2016

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

Contract Name	Gateway 2: Contract Award Approval for the Design and Build of Bellenden Primary School
Contract Description	To award a contract to Morgan Sindall plc, in the sum of £[x], for the Design and Build of Bellenden Primary School
Contract Type	Design and Build
Lead Contract Officer (name)	Bruce Glockling
Lead Contract Officer (phone number)	020 7525 0138
Department	DCE
Division	Regeneration
Procurement Route	iESE Framework
EU CPV Code (if appropriate)	
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed Price
Supplier(s) Name(s)	Morgan Sindall plcs
Contract Total Value	£
Contract Annual Value	£
Contract Start Date	
Initial Term End Date	
No. of Remaining Contract extensions	n/a
Contract Review Date	n/a
Revised End Date	n/a
SME/ VCSE (If either or both include Company Registration number and/or registered charity number)	
Comments	

London Living Wage	Yes

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