

## **North Somerset Council Decision**

**Decision Of: Councillor Steve Bridger. Executive Member for Assets and Capital Delivery**



**With Advice From: Director of Place, Director of Children's Services and Head of Strategic Procurement**

**Decision No: 21/22 DP 141**

**Subject: Procurement Plan for the Winterstoke Hundred Academy Expansion Site Preparation / Enabling Works**

**Key Decision: NO**

**Reason:** This procurement plan is covering the route to market only, the Commissioning Plan covered authority to proceed with the project. This commission will not affect more than one community/ward.

### **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.

Kier Construction Ltd were appointed in January 2021 to design the Winterstoke Hundred Academy Expansion (WHAE) (Decision No. CY11 (2020/21 Scheme)) via the Southern Construction Framework with the intention (subject to performance and Executive approval) to appoint them in January 2022 to also construct the school.

In advance of commencing construction of the school it is necessary to prepare the site. This will involve:

- The levelling of the site
- The creation of up to five different levels / plateaus
- The removal of vegetation, stumps and foliage

- The removal and transfer of excess soil

**Decision:**

It is requested that the procurement plan be approved to proceed.

**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 September and the intended commencement of construction in November 2021.

In order to ensure the smooth delivery of the school within the tight programme, the project team intend to appoint 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 costs amounting to the total STM are going to avoid incurring by not undertaking the site preparation work themselves. This will be a contribution towards the cost of contracting Kier to undertake this work. 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.

**Commissioning Plan**

The Commissioning Plan was approved at Full Council on 25th June 2019 (see Background Papers).

**Lessons Learned from previous projects**

Both Kier and Atkins (NSC's Employer's Agent) have advised NSC that on similar projects to this it is not uncommon for the party obligated to undertake S106 to not always deliver within the time frame, or to the quality, the project requires, and it is advisable to mitigate the risk of this happening where possible.

**Requirement**

It is anticipated that we will receive planning permission 27th August 2021. It will take four weeks to get the MMP approved meaning the earliest the site preparation / ground enabling works can start the end of September. The site preparation work is expected to take 8 weeks. The project programme requires Kier to commence construction in November 2021. This provides a short window of time to undertake the work. It is important to ensure that it is completed right first time.

Kier are currently contracted under a Pre-Construction Service Agreement (PCSA) to undertake the design work for the school. Subject to the agreement of terms it is our intention to appoint Kier via a JCT Design & Build Contract to build the school from November 2021. This site preparation / ground enabling works falls outside of the scope of the PCSA and will commence prior to agreeing a build price for the school and the entering into of the JCT Design & Build Contract. As such it is proposed that this work is procured via the SCAPE Minor Works Framework, using a NEC 4 ECC Contract. The value of the work is estimated to be less than £1,000,000 and will commence in September and conclude at the completion of the work in November 2021.

The specification for the work to be undertaken is being created by Kier who are leading on the design of the school. Kier will seek proposals to deliver the work from sub-contractors during July and by early August we will have the final cost of delivering the work.

The work specification will be checked by the NSC team and the Employer's Agents, Atkins. Atkins will check the specification is complete, technically sound and have a quantity surveyor check that all costs are acceptable. Please see the 'Evaluation' section below for more detail on this process.

### **Route to market**

It is intended that the SCAPE Minor Works Framework (a single supplier framework) will be used to procure the services of Kier for this work. Contracts under the value of £4M can be directly awarded via SCAPE. It is appropriate to directly award this work to Kier as opposed to put it out for competitive tender as having Kier control this work will minimise risk to the 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 will be solely responsible for the continuum of works from site preparation to construction completion.

The contract will be for 3 months from Sept 2021 – Nov 2021, at which point the JCT Construction contract will take over.

## Timescales

Action	Date
Initial specification for ground works prepared	April / May 2021
Deed of variation to S106 agreements written and signed by NSC and STM	August 2021
Specification of works completed	End of June 2021
Ground investigation work to determine rock consistency and cost of excavation	July 2021
Cost schedule finalised	August 2021
Specification and cost schedule checked by Employer's Agent	August 2021
Package of work put to the market to achieve best value	August 2021
Final Kier proposal of costs received & checked by Employer's Agent	August 2021
Planning permission granted	27 <sup>th</sup> August 2021
Contract award report approved Delivery Agreement signed	August 2021
Materials Management Plan agreed	September 2021
Site preparation / ground enabling works commence	September 2021
Site preparation / ground enabling works conclude	November 2021
School construction commence	November 2021

## Governance

The contract award report will be approved by the Director for Place, advised by the S151 Officer and the Head of Strategic Procurement. The Senior Project Manager of the NSC WHAE team, with the support of the Programme Manager for Major Projects and the Head of Major Projects will oversee the delivery of the contract by Kier who will have day-to-day management responsibility for the physical work. The achievement of planning permission will be a condition of contract award.

The Strategic Procurement Service are supporting the WHAE team with the procurement process.

## Market / Suppliers

Due to the intention to directly award this contract to Kier (via a single supplier framework), no market assessment has taken place, other than to ensure through conversations with themselves and Atkins that Kier can oversee and deliver the work to the required quality within the time window and offer value for money (see Evaluation below).

It should be noted however that Kier will subcontract the work to another company and will carry out a tender exercise to achieve best value.

## Social Value, Sustainability & VCSE

Kier have committed to delivering a comprehensive programme of social value initiatives through the ongoing design process and during the construction of the school. 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.

## Evaluation

Following the appointment of Kier under the Scape Framework Minor Works Agreement, Atkins who are to be appointed to undertake project management, technical advisor and quantity surveyor services to the HSC 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
- Lead 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

## 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 Atkins who will provide a qualified NEC 4 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.

## Options Considered:

As opposed to the proposed route of directly awarding this work to Kier via the SCAPE Framework the principal alternative option would have been to secure a contractor via a competitive tender.

The reasons against this have already been outlined and are to:

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. Avoid interface and work liability issues as the school contractor will be solely responsible for the continuum of works from site preparation to construction completion.

## Financial Implications:

### Costs

The cost of the site preparation / ground enabling works are £960,076.51. This is broken down as per the table below.

Task	Cost
Preliminaries	£166,025
Reduce level dig	£523,982.86
Construction plateau formation	£220,654.96
Insurance	£9,106.63
Overhead + Profit (3.40%)	£31,272.16
SCAPE Framework Fee (0.95%)	£9,034.90
<b>TOTAL</b>	<b>£960,076.51</b>

At the end of July some exploratory holes will be dug to expose the bedrock to enable its consistency to be examined. This examination will confirm 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 insure the ground does not require remediation. Some tests have already been undertaken and not shown any issues 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 needed to be added to the scope of work.

If one or more of these additional costs are incurred and the cost of the work package goes above £1m it is work noting that this will reduce the overhead and profit % payable to the contractor within the SCAPE framework to 2.90%.

## **Funding**

The proportion of the HIF funding for the construction of the school is £30,347,175. £1,240,866.61 of this has been spent to date leaving £29,106,308.40 to pay for this contract.

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.

Defining the proportion of these works which St Modwen and Homes England are obligated to undertake as part of their S106 has been the subject of intense and ongoing negotiation. The S106 agreements leave a lot of room for interpretation however it is anticipated that an agreement will be reached in August 2021 with a sum of circa £400,000 paid to NSC by St Modwen at the point of transfer in lieu of delivering their obligations. This will go into the project budget to offset costs incurred carrying out this work.

## **LEGAL POWERS AND IMPLICATIONS**

Kier will be contracted to undertake this work using a NEC 4 ECC Contract via the SCAPE Minor Works Framework through which the work is being procured. The SCAPE Minor Works Framework is a single supplier framework which was procured in accordance with the Public Contract Regulations 2015.

## **CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

It is intended that approximately 15,000m<sup>3</sup> of soil will need to be removed from the site as part of the site preparation work. This will be utilised in the creation of sports pitches in other areas of the wider school site. This will save a significant carbon which would have been emitted by taking it away from the site for disposal.

## **CONSULTATION**

The Chair of the HIF Board was briefed on this proposed process on 22<sup>nd</sup> April. The Head of Planning was briefed on the 30<sup>th</sup> April and Head of Finance and the Team Leader (Property and Contracts Team) were briefed on the 11<sup>th</sup> May.

## **RISK MANAGEMENT**

Project risks can be categorised as risks to cost, quality or time - with many risks impacting on more than one of these factors.

The preferred land transfer arrangements most significant risk reduction benefit is in relation to the programme and retaining control of the programme as a result of not having to rely on another party to undertake work for the project to proceed from design to construction. By appointing Kier, this risk is significantly mitigated.

Risks associated with quality are also reduced with the quality of the work undertaken in preparing the site being undertaken by contractor Kier.

The proposed approach does present a potential financial risk to the council which arises from the need for STM to make the agreed financial contribution; however, this will be framed within the context of the existing S106 agreement and supplemental agreement. It can be expected however that as STM have the intention of working for many years on the Parklands site and others across North Somerset, they will want to co-operate with the council.

The ground enabling works are being procured via a single supplier framework which is a compliant mechanism for procuring works. The council will publish a contract award notice on Contracts Finder and on the council's Contracts Register, to ensure transparency.

## **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.

The contract will be managed by the Senior Project Manager (HIF Secondary School) within Major Projects and Technical Services team.

## **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>

HIF 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>

**Signatories:**

**Decision Maker(s):**



Signed: Executive Member for Assets and Capital Delivery

Date: 6 August 2021

**With Advice From:**



Signed: Director of Place

Date: 4 August 2021.



Signed: Director of Children's Services

Date: 4 August 2021.



Signed: Head of Strategic Procurement

Date: 5 August 2021.