

	<p>ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER</p> <p>In consultation with the Chairman of the Housing and Growth Committee</p> <p>Date 10 November 2021</p>
<p>Title</p>	<p>Brent Cross Cricklewood Regeneration: Replacement Waste Transfer Station</p>
<p>Report of</p>	<p>Deputy Chief Executive</p>
<p>Wards</p>	<p>Childs Hill, Golders Green and West Hendon</p>
<p>Status</p>	<p>Public</p>
<p>Enclosures</p>	<p>None</p>
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Summary

On 14 June 2021, the Housing and Growth Committee delegated to the Deputy Chief Executive in consultation with the Chairman of the Housing and Growth Committee to make the contract award and authorise entering into the contract to deliver the replacement Waste Transfer Station as part of the Brent Cross Cricklewood Programme.

The report confirms the award of contract appointment of McLaughlin & Harvey following completion of the OJEU compliant procurement process that has been undertaken (OJEU Notice 2020/S 170-412510) as contractor for a two-stage NEC3 ECC Design & Build contract to design, build, commission and handover into operational use a new replacement Waste Transfer Station to the end users, North London Waste Authority and LondonEnergy Ltd. The contract terms have been specified by the council to ensure that the replacement Waste Transfer Station is delivered in accordance with the Settlement Agreement (dated 12 September 2017 and as varied on 14 August 2018 and 14 October 2020).

Decisions

To authorise a) the award of the two-stage replacement Waste Transfer Station design and build contract to McLaughlin & Harvey for the design, construction, commissioning, and handover into operational use of a replacement Waste Transfer Station to the End Users,

North London Waste Authority and LondonEnergy Ltd b) entering into contract following completion of the required standstill period.

1. WHY THIS REPORT IS NEEDED

- 1.1 In accordance with the Settlement Agreement dated 12 September 2017 (as varied by a Deed of Variation dated 14 August 2018 and a Variation Agreement dated 14 October 2020), the council is to provide the North London Waste Authority (NLWA) and their operator, LondonEnergy Ltd (LEL), with a replacement Waste Transfer Station for the Hendon Transfer Station which has been decommissioned in order to progress construction of the Brent Cross Cricklewood (BXC) programme. Operations have been temporarily relocated to the Hannah Close, North London.
- 1.2 On 14 June 2021, the Housing and Growth Committee delegated to the Deputy Chief Executive in consultation with the Chairman of the Committee to authorise the contract award and enable the entering into the contract to deliver the replacement Waste Transfer Station. This is set out in paragraph 1.46 of the report to the Committee in June 2021.
- 1.3 Following completion of the OJEU compliant procurement process (in accordance with all the Public Contracts Regulations) to select a contractor to design, construct, commission, and handover into operational use a replacement Waste Transfer Station, this report authorises entering into the two stage design and build contract with the preferred supplier, McLaughlin & Harvey. Stage One of the Contract consists of incorporating agreed value engineering options to the existing RIBA Stage 4 design for Geron Way and developing a revised design to RIBA Stage 3. Alternatively, a new design may be developed for an alternative site to RIBA Stage 3. Both options are on a cost reimbursable basis with fixed price elements.
- 1.4 The Council may, but is not obliged to, later instruct Stage Two of the Contract, which consists of developing the design (of either Geron Way or an alternative site as selected by the Council) to RIBA Stage 4, undertaking the RIBA Stage 5 construction, testing & commissioning and RIBA Stage 6 handover into operational use, on a fixed price basis (with the price to be finalised at the end of Stage One).
- 1.5 The Council may elect to curtail Stage One of the Contract at any time and proceed immediately to Stage Two of the Contract for delivery of the replacement Waste Transfer Station at Geron Way.
- 1.6 The Council is under no obligation to issue an instruction to proceed to Stage Two.

Replacement Waste Transfer Station

- 1.7 The OJEU notice (2020/S 100-243173) accompanied by the Memorandum of Information and Selection Questionnaire (SQ) was subsequently published on 25 May 2020.
- 1.8 SQ responses were received on 19 June 2020, from five suppliers. The SQs were evaluated in accordance with the evaluation criteria published in the OJEU notice. However, with the ITT due to be released to the selected suppliers, the OJEU notice was placed on hold on 8 July 2020.
- 1.9 With the authority of the Chief Executive, the procurement strategy was amended to retain flexibility in providing the replacement Waste Transfer Station at either Geron Way or an alternative site (to be confirmed at a later date once the Council has undertaken further reviews and studies).
- 1.10 Consequently an updated OJEU Notice (2020/S 170-412510) accompanied by the Memorandum of Information (MOI) and Selection Questionnaire (SQ) was published on 2 September 2020.
- 1.11 SQ responses were received on 5 October 2020, from four suppliers. The SQs were then evaluated in accordance with the evaluation criteria published in the OJEU notice: Pass/Fail questions on areas including early contractor involvement & Waste Transfer Station experience, HSQE, Regulatory Compliance and Economic & Financial stability. Scored questions were on management of steel supply (15%), HSQE management (20%) and Technical Capability (65%) including Health & Safety risks (20%), site security (10%), collaborative working relationships (10%), collaborative behaviours (10%), experience working with NEC 3 Option A contracts (15%). This was scored by a pre-selected and approved evaluation panel. The results were moderated, resulting in three suppliers being taken through to the Invitation to Tender (ITT) Stage.
- 1.12 SQ evaluation identified three suppliers to be shortlisted to ITT stage who were invited to participate. One supplier withdrew from further participation at this stage.
- 1.13 The Invitation to Tender was issued on 18 November 2020.
- 1.14 Initial responses to the ITT were received on the 9 April 2021 from two suppliers, McLaughlin & Harvey and Supplier B. Suppliers were then invited to a series of negotiation sessions that took place between 14 June 2021 and 12 August 2021.
- 1.15 Following the successful conclusion of the negotiation phase the two suppliers were issued with an invitation to submit final tenders (ISFT) on 13 August 2021.
- 1.16 Final submissions were received from the bidders on 3 September 2021 in accordance with the ISFT. The evaluation of Final Tender submissions has been completed in accordance with the evaluation criteria published in the

ISFT. For each question, individual evaluation was undertaken followed by moderation sessions to confirm final scoring.

1.17 The moderated scoring of the final tender submissions are provided in the table below:

Description	Weighting %	McLaughlin & Harvey	Supplier B
Quality Total	46%	34.20	29.73
Commercial Total	49%	27.83	21.17
Social Value	5%	4.00	4.00
GRAND TOTAL	100%	66.03	54.90

1.18 This evaluation and process confirmed that the preferred supplier Final Tender bid represented the most economically advantageous tender (MEAT) in accordance with Regulation 67 of the PCR 2015.

1.19 As such, this report sees to authorise:

- a) the award of the two-stage replacement Waste Transfer Station design and build contract to McLaughlin & Harvey for the design, construction, commissioning, and handover into operational use of a replacement Waste Transfer Station to the End Users, North London Waste Authority and LondonEnergy Ltd;
- b) entering into contract following completion of the required standstill period. Following completion of the standstill period, the council will proceed to enter contract.

1.20 These works are funded by HM Government grant as part of the revised funding agreement for Brent Cross Cricklewood and are being delivered by the Council to support the comprehensive regeneration of Brent Cross Cricklewood

2. REASONS FOR DECISIONS

2.1 Awarding the contract will ensure that the council meets its obligations under the Settlement Agreement with NLWA and LEL.

2.2 It will also allow the council to incorporate and develop value engineering opportunities to the RIBA Stage 4 Geron Way design through Stage One of the contract, alongside securing the contractor for Stage Two so to construct the replacement Waste Transfer Station in accordance with the project timetable.

2.3 Procurement in compliance with public procurement legislation is necessary where a public body is seeking to procure goods and services above a specified threshold and this process needs to be undertaken in a fair and open manner. As Awarding Authority, the Council is required to ensure the selected contractor submitted the most economically advantageous tender (MEAT) in accordance

with Regulation 67 of the Public Contract Regulations (PCR) 2015 of those involved in the process and can provide value for money in the delivery of the social, economic and environmental regeneration outcomes and outputs.

- 2.4 The Contract requires the contractor to meet Social Value obligations via the Brent Cross Cricklewood Employment Skills Action Plan (ESAP), which is applicable throughout the London Borough of Barnet and aligns with its Social Value Target Operational Models (TOMS) requirements.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 3.1 A previous option to deliver the replacement Waste Transfer Station at Geron Way using the council's framework contractor was discounted in preference of pursuing a competitive tender to secure efficiencies and best value.
- 3.2 The available alternatives at this stage would be to either not award or to defer the award of this two-stage design and build contract for the delivery of a replacement Waste Transfer Station at either Geron Way or at an alternative site location. However, this is not recommended since it would import significant risk to the Council that a replacement Waste Transfer Station may not be operational in accordance with the project timetable. It could potentially import additional costs if the scheme were to be progressed at a later date.

4. POST DECISION IMPLEMENTATION

- 4.1 The Council will issue the Award Notification Letters informing suppliers of the outcome and the reasons behind the outcome. Following issue of these letters, the Council must observe a mandatory ten-day standstill period before a contract can be entered into with the preferred supplier. This is to provide the unsuccessful suppliers with the chance to seek an effective remedy if it contested that the Council did not comply with the procurement regulations.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 As set out in the report to the Housing and Growth Committee dated 13 September 2021.
<https://barnet.moderngov.co.uk/documents/s66501/Brent%20Cross%20Update%20Report.pdf>

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 Once approved, LBB will award the two stage design and build contract for the design, construction and handover into operational use of a replacement Waste Transfer Station to McLaughlin & Harvey.

- 5.2.2 Under the terms of the contract, McLaughlin & Harvey will attend monthly project review meetings and provide a monthly cost report to monitor the contract and ensure value for money. The Council's delivery team will manage the contract to ensure that it is administered within the approved budget and agreed timescales.
- 5.2.3 The authorised budget to deliver the replacement Waste Transfer Station forms part of the MCHLG Revised Funding Agreement for Brent Cross Cricklewood.
- 5.2.4 The tendered price from McLaughlin & Harvey is within the authorised budget.

5.3 Legal and Constitutional References

- 5.3.1 The Council's power to enter into various arrangements to progress the redevelopment of the BXC scheme is contained in the general power of competence under Section 1 of Chapter 1 of the Localism Act 2011. Section 1 of the Localism Act 2011 provides local authorities with a broad power to do anything that individuals can do subject to any specific restrictions contained in legislation.
- 5.3.2 The Local Government (Contracts) Act 1997 provides an express general power for local authorities to enter into contracts with third parties.
- 5.3.3 Section 111 of the local Government Act 1972 provides a local authority with the power to do anything which is calculated to facilitate or is conducive or is incidental to the discharge of its functions.
- 5.3.4 Annex B of LBB's constitution, Responsibility for Functions, states the powers delegated to Officers, including that the Deputy Chief Executive has the lead responsibility to implement LBB's policies, to ensure that it delivers its objectives and duties, within budget and according to strategic priorities and statutory requirements.
- 5.3.5 The Council's Constitution, Article 7.5, Responsibility for Functions, states that the Housing and Growth Committee is responsible for the regeneration strategy and overseeing major regeneration schemes.
- 5.3.6 Article 10 Table B of LBB's constitution sets out the values for procurement activity. If within budget the approval method is via a Full DPR (Chief Officer in consultation with Theme Committee Chairman). This DPR complies with the constitutional requirements.

5.4 Risk Management

- 5.4.1 This is set out in the report to the Housing and Growth Committee dated 13 September 2021 and within the Exempt Report.

<https://barnet.moderngov.co.uk/documents/s66501/Brent%20Cross%20Update%20Report.pdf>

5.5 Equalities and Diversity

5.5.1 This is set out in the report to the Housing and Growth Committee dated 13 September 2021.

<https://barnet.moderngov.co.uk/documents/s66501/Brent%20Cross%20Update%20Report.pdf>

5.6 Consultation and Engagement

5.6.1 This is set out in the report to the Housing and Growth Committee 13 September 2021.

<https://barnet.moderngov.co.uk/documents/s66501/Brent%20Cross%20Update%20Report.pdf>

5.6.2 Relevant Statutory Undertakers and Associations will be consulted by the contractor.

5.6.3 Building Control, LBB Service Delivery team, NLWA, Argent, Hammerson and Network Rail.

5.6.4 The contractor will be required to engage through the Integrated Programme Management Office (iPMO) to ensure that communication and construction logistics are coordinated with the wider Brent Cross programme works taking place as part of the Brent Cross West station, and Brent Cross Town development.

6. BACKGROUND PAPERS

6.1 Housing and Growth Committee, 13 September 2021

<https://barnet.moderngov.co.uk/documents/s66501/Brent%20Cross%20Update%20Report.pdf>

6.2 Housing and Growth Committee, 14 June 2021

<https://barnet.moderngov.co.uk/documents/g10845/Printed%20minutes%2014th-Jun-2021%2019.00%20Housing%20and%20Growth%20Committee.pdf?T=1>

6.3 Housing and Growth Committee, 27 January 2020

<https://barnet.moderngov.co.uk/documents/s57432/Brent%20Cross%20Cricklwood%20Update.pdf>

6.4 Housing and Growth Committee, 6 July 2020

<https://barnet.moderngov.co.uk/documents/g10553/Printed%20minutes%2006th-Jul-2020%2019.00%20Housing%20and%20Growth%20Committee.pdf?T=1>

6.5 Housing and Growth Committee, 26 November 2019

<https://barnet.moderngov.co.uk/documents/s56498/BXC%20Committee%20Report.pdf>

6.6 Assets, Regeneration and Growth Committee, 20 June 2019

<https://barnet.moderngov.co.uk/documents/s52928/ARG%20BXC%20Committee%20Report%20June%202019%20Final%200506.pdf>

7. DECISION TAKER'S STATEMENT

- 7.1 I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations.

8. OFFICER'S DECISION

I authorise the following action

- 8.1 **To award the replacement Waste Transfer Station two stage design and build Contract to McLaughlin & Harvey for the design, construction, commissioning, and handover into operational use of a replacement Waste Transfer Station to the End Users, North London Waste Authority and LondonEnergy Ltd and enter into contract upon completion of the standstill period.**

Chief Officer: Cath Shaw

Signed: Deputy Chief Executive

Dated: 10.11.2021

Signed: Chairman Housing and Growth Committee

Cllr. Richard Cornelius

Chairman of Housing & Growth Committee

Date: 12.10.2021