

Notice of Meeting

THE EXECUTIVE

Tuesday, 1 December 2009 - 5:00 pm
Council Chamber, Civic Centre, Dagenham

Members: Councillor L A Smith (Chair); Councillor R C Little (Deputy Chair); Councillor J L Alexander, Councillor G J Bramley, Councillor S Carroll, Councillor H J Collins, Councillor R Gill, Councillor M A McCarthy, Councillor Mrs V Rush and Councillor P T Waker

Date of publication: 20 November 2009

R. A. Whiteman
Chief Executive

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AGENDA

1. **Apologies for Absence**
2. **Declaration of Members' Interests**

In accordance with the Council's Constitution, Members are asked to declare any personal or prejudicial interest they may have in any matter which is to be considered at this meeting.
3. **Minutes - To confirm as correct the minutes of the meeting held on 17 November 2009 (circulated separately)**
4. **Warren Fields and Hainault Road Allotments Site - Proposed Partial Surrender and Re-Grant of Part of Lease to LBBD (Pages 1 - 7)**
5. **Award of Framework Agreement for the Provision of Cleaning and Janitorial Supplies (Pages 9 - 14)**

Appendix A to this report is contained within the private & confidential section of the agenda.
6. **Any other public items which the Chair decides are urgent**
7. **To consider whether it would be appropriate to pass a resolution to exclude the public and press from the remainder of the meeting due to the nature of the business to be transacted.**

Private Business

The public and press have a legal right to attend Council meetings such as the Executive, except where business is confidential or certain other sensitive information is to be discussed. The list below shows why items are in the private part of the agenda, with reference to the relevant legislation (the relevant paragraph of Part 1 of Schedule 12A of the Local Government Act 1972 as amended).

8. Award of Framework Agreement for the Provision of Cleaning and Janitorial Supplies - Appendix A (Pages 15 - 16)

Concerns a contractual matter (paragraph 3)

9. Any other confidential or exempt items which the Chair decides are urgent

THE EXECUTIVE

1 DECEMBER 2009

REPORT OF THE CORPORATE DIRECTOR OF RESOURCES

Title: Warren Fields and Hainault Road Allotments Site – Proposed partial surrender and re-grant of part of lease to LBBD	For Decision
<p>Summary</p> <p>In 1974, the Council took a 50 year lease of approx. 23 acres of Green Belt land from the Crown Estate Commissioners for use as school playing fields for Warren School, Whalebone Lane North and also for use as the (now disused) Hainault Road Allotments site. The land is shown on the plan at Appendix 1 to this report (plot “A” shows Warren Fields and “plot B” together with “plot C” shows the Hainault Road Allotment site).</p> <p>Hainault Road Allotments site became disused over three years ago and negotiations were therefore opened with Crown Estate towards a possible surrender of this part of the site so as to reduce the Council’s liability for this plot of land.</p> <p>It is proposed that the lease for the whole plot of land be surrendered and that “plot C” will be leased back to the Council by way of a new lease until 2044 being 20 years beyond the existing lease term. “Plot C” will be converted into a new football pitch and a new rugby pitch for Warren School. Under the proposal, part of the land surrendered will be leased directly by Crown Estates to Cranfield Golf for use as part of a new 9 hole golf course site. Under this arrangement, Cranfield Golf will fully fit out and fence off the new school playing fields to the Council’s requirements at no cost to the Council. This will create a better shaped and more useful playing field for Warren School which will be in much better condition than the current poor quality playing fields at “plot A”.</p> <p>Cranfield Golf has sought and obtained planning permission for the proposed golf course and new playing fields under planning application reference number 08/00106/FUL.</p> <p>The main advantages of this proposal are:</p> <ul style="list-style-type: none"> • The Council will hand back the liability that exists over the disused allotments site. The Council will also hand back the responsibility (and liability) for the strip of ancient woodland / hedgerow that runs along the Northern boundary of “plot “A” (which instead will be managed in future by Cranfield Golf as part of the golf scheme.) • The Council will gain new and more useable playing fields with an additional 20 years lifetime on the lease at no cost to the Council. • Under this proposal, the rent review that is now due under the current lease will not be activated by the landlord and the rent of the new playing fields will remain as at present (£2,500 p.a.) until the first review in five years time. • The golf driving range will be extended and improved and a new 9 hole golf course will be provided within the borough at no cost to the Council. • Cranfield Golf estimate that the proposal will create a further eight permanent employment posts in the first place and they have indicated that they will seek to recruit from within the borough where possible. <p>Wards Affected: Chadwell Heath</p>	

Recommendation(s)

The Executive is recommended to:

- (i) Approve the proposal to surrender the whole plot of land, known as Warren Fields and the former Hainault Road Allotment Site, subject to the simultaneous completion by way of a new lease to the Council of the area shown as “plot C” on **Appendix 1** until 2044;
- (ii) Authorise the Corporate Director of Resources, in consultation with Legal Partners, to approve the final terms and conditions of the lease; and,
- (iii) Note that “Plot C” will be converted into a new football pitch and a new rugby pitch for Warren School, and Cranfield Golf will fully fit out and fence off the new school playing fields to the Council’s requirements at no cost to the Council.

Implications:

Financial:

The rent under the present lease is £2,504 p.a. with a rent review due with effect from 5 January 2009. However, at the time of preparing this report, the landlord had not activated the rent review provision in the lease.

The new lease of the school playing fields will run until 2044 (i.e. a 20 year extension over the current lease) at a rent of £2,500 p.a. fixed until the first rent review. (The rent review pattern will be five yearly.)

The new playing fields will be created and be available for Warren School at no cost to the Council.

The school will be responsible for the ongoing maintenance and running costs of the new playing field rather than the Council.

Legal:

The Council is obliged under the existing lease to keep and maintain the existing site in proper repair and use it as school playing fields and as an allotment site. No other uses are permitted under the lease. Since the allotments became vacant that part of the site has become overgrown and the boundary fences and other infrastructure of the allotments have deteriorated thereby putting the Council in breach of its lease. The Council could therefore face a significant financial claim for dilapidations as a result and in the worst case scenario, forfeiture action from the landlord. If successful, this would result in loss not just of the allotments but also of the school playing fields as both are held under the same lease.

Agreeing the proposal will negate these risks and create a new and improved asset for the Council in terms of the new playing fields. The Council will also lose responsibility and liability for the ancient woodland / hedgerow that forms the northern boundary of “plot A” under the current lease.

Each party will bear its own legal costs.

The existing allotment site is not a statutory allotment land. It constitutes a temporary

allotment site and the Council is able to surrender its leasehold interest in the land as it is no longer required for use for allotments.

Although Council has a legal duty to provide allotment sites where there is a demand, the existing allotment site has been disused for some years and there is no funding available to put the redundant allotment site back into use.

The following legal documentation will be required for the transaction: Deed of Surrender and re-grant/New Lease, and Licence to carry out works.

Contractual:

The Council has an existing lease of land at Warren Fields and Hainault Road Allotments which will be surrendered for a new lease of land which will be developed to the Council's specifications and requirements as playing fields for Warren School.

Risk Management:

The Council faces risks with regard to the existing lease as there are covenants requiring the tenant to keep and maintain the property in proper repair and also to use the property only for the purposes specified in it (i.e. for playing fields and as allotments.)

In order to protect the Council's interests in respect of the current lease the best options are either (i) to reinstate the redundant allotments site (which would be very expensive), or (ii) to agree to this proposal which is considered to be the most cost effective option and in the Council's best interest.

Staffing:

No specific implications.

Customer Impact:

The proposal will prevent the disused allotment site deteriorating further and will secure new playing fields for Warren School on a new lease until 2044. The arrangement with Cranfield Golf will also create new recreational facilities that can be used by the residents of the Borough.

Safeguarding Children:

No specific implications.

Crime and Disorder:

There is a risk that if this proposal is not approved, the site could deteriorate further whilst alternative uses that are agreeable to the landlord are found. This deterioration could encourage vandalism and other problems associated with uncared for plots of land. Agreement to the proposal will help avoid these risks and contribute to the Council's aims in regard to reduction of Crime and Disorder.

Property / Assets:

The proposal will result in the surrender of a disused allotments site and secure a new long term lease of playing fields for Warren School to modern standards.

Options Appraisal:

Options considered but rejected –

- 1 The Council could do nothing and leave the land to “go wild” until the end of the

lease. Whilst this would avoid expenditure in the short term, the Council would be taking significant, unquantifiable and potentially unlimited risks in terms of potential public liability claims for the site. Further disadvantages of this approach are that the Council would be “storing up” a major dilapidations claim for the future along with the Legal implications of possible repossession proceedings outlined elsewhere in this report.

- 2 The Council could reinstate the disused allotments site and continue to use the school playing fields. However, the costs would be significant as the allotments measure approximately 11.5 acres and Leisure Services have advised that they do not have funding for this.

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Contact Officer: Nick Slater	Title: Professional Services Officer	Contact Details: Tel: 020 8227 3074 Fax: 020 8227 3661 E-mail: nick.slater@lbbd.gov.uk

1. Background

- 1.1 In 1974, the Council leased in the land that was used to form Hainault Road Allotments (shown as “plot B” and “plot C” on Appendix 1 to this report) and the land that was used to create Warren School Playing Fields (shown as “plot A” on the Appendix) from the Crown Estate on a 50 year lease. I.e. both the allotments and the school playing field are held under the same lease from Crown Estate. The lease will expire in 2024.
- 1.2 The site measures approximately 23 acres in total and the current rent is £2,504 p.a. made up of £2,500 p.a. for the school playing field and £4 p.a. for the allotments. (The school playing field is subject to rent review on a 7 yearly basis, but the rent of the allotments is fixed throughout the term at £4 p.a.)
- 1.3 The site lies within the Council’s “Green Belt” and therefore commercial redevelopment proposals are unlikely to be successful.
- 1.4 The allotments part of the site was declared as being surplus to the Council’s requirements over three years ago. Due to cessation of use and lack of maintenance, the site has become overgrown and dilapidated as a result. This has potential implications for the Council in relation to its obligations under the lease and could also pose a risk to the Council’s interests in the school playing fields.
- 1.5 For some time, Officers have therefore been seeking to negotiate suitable terms with the Crown Estate’s surveyors that would allow the Council to surrender the redundant part of the site at the minimum possible cost, but still retain possession of the playing fields for use by Warren School.

2. Report Detail

- 2.1 Subject to the Executive's approval, a proposal has been agreed with Crown Estate's surveyors to surrender the redundant allotments site and relocate the playing fields into a new rectangular shaped playing field that will be built at no cost to the Council to the rear of Warren School. (See "Plot "C" as marked on **Appendix 1** to this report.) The land that the Council will surrender back to the landlord will be re-let along with certain other land in Crown Estate's ownership to Cranfield Golf Driving Range to allow them to develop a nine-hole golf course.
- 2.2 The area to be leased would be made up of one football pitch and one rugby pitch and will be laid to "Natural Turf for Sport" Sport England standards. (Warren School indicated in the course of discussions that they do not want artificial pitches.) The new playing field will be created before the Council relinquishes occupation of the current playing field.
- 2.3 There are three parties to this proposal: Crown Estate, Cranfield Golf Club (who currently run the golf driving range in Whalebone Lane North and are also the Crown Estate's tenants) and London Borough of Barking and Dagenham. Under these proposals, Cranfield Golf Club will build and fit out the new school playing fields for Warren School to the Council's specifications and requirements at no cost to the Council.
- 2.4 The lease for the new school playing fields will run from the date of completion of legal documentation until 2044 (i.e. 20 years more than the Council's current lease) at an initial rent of £2,500 p.a. There will be rent reviews on a five yearly basis throughout the term. The school will be responsible for the ongoing maintenance and running costs of the new playing field rather than the Council
- 2.5 The new playing fields should be more useable to Warren School as it will be rectangular in shape rather than the triangular plot held under the current lease.

3. Consultees

- 3.1 The following were consulted in the preparation of this report:

Cllr. L Smith, Leader of the Council

Cllr. G Bramley, Portfolio Holder Finance and Human Resources

Cllr. S. Carroll (Ward Councillor)

Cllr. T. Justice (Ward Councillor)

Cllr. N. Smith (Ward Councillor)

Rob Whiteman, Chief Executive

Sue Lees, Divisional Director Strategic Asset Management and Capital Delivery

Alex. Anderson, Group Manager. Resources, Finance

Lee Russell, Group Manager, Corporate Finance

Yinka Owa, Legal Partner

Jeremy Grint, Head of Regeneration and Economic Development

David Wood, Corporate Director of Customer Services

Mike Freeman, Group Manager Assets, Children's Services

Steve Benning, Project Office – Quality and Improvements, Children's Services

Paul Hogan, Head of Leisure & Arts,

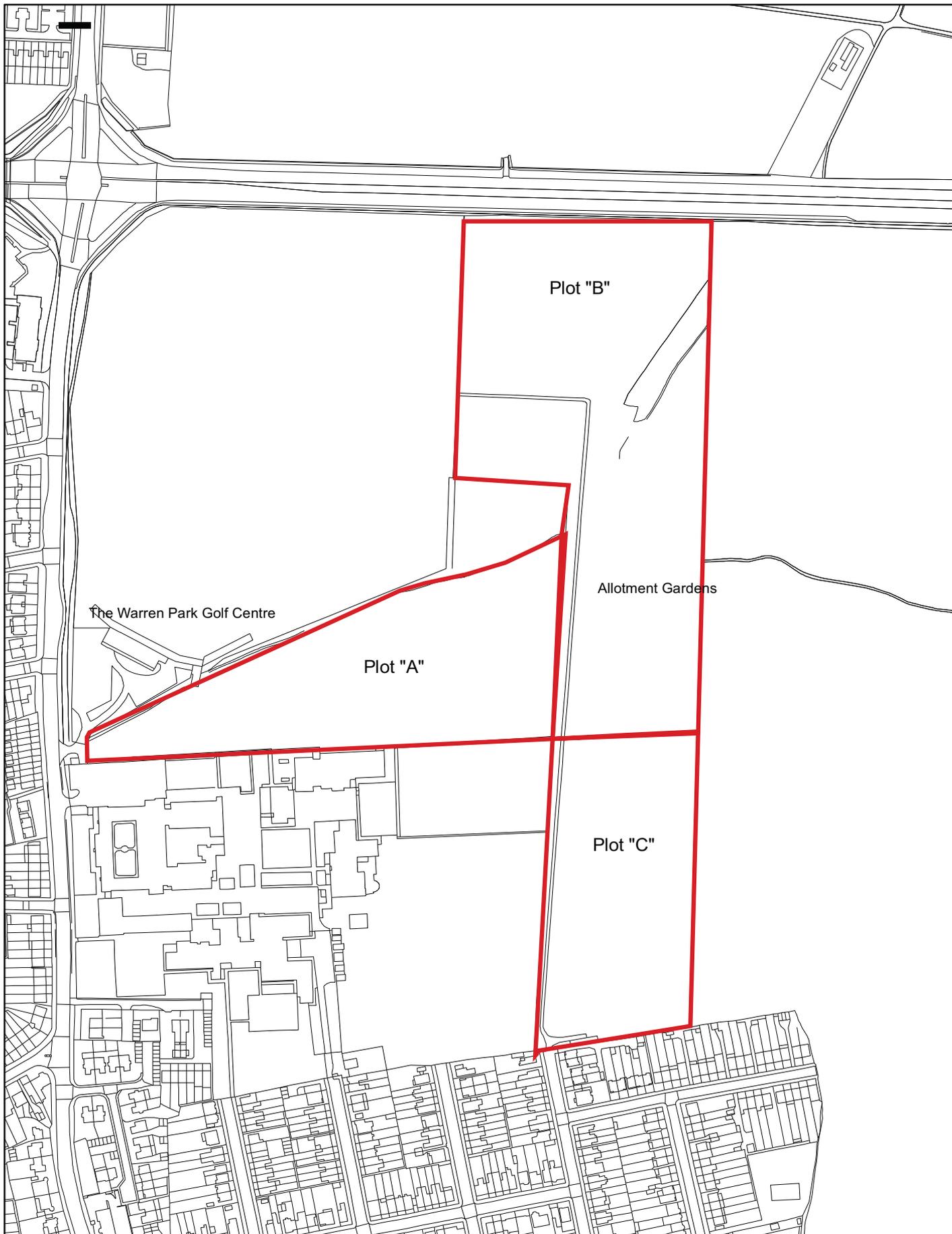
David Theakston, Group Manager, Parks & Commissioning, Leisure and Arts

Kenneth Jones, Headteacher, Warren Comprehensive School

4. Background Papers Used in the Preparation of the Report:
None

5. List of appendices:

Appendix 1 - Warren Fields and former Hainault Road Allotments - plot layout



**Warren Fields and Hainault
Road Allotment Site**

Town Hall, Barking,
Essex, IG11 7LU
Tel: - 020 8215 3000
Page 7

Scale:- 1:3,480
Produced By:- Penny Taberman
Date - 15/10/09

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EXECUTIVE

1 DECEMBER 2009

REPORT OF THE CORPORATE DIRECTOR OF RESOURCES

Title: Award of Framework Agreement for the Provision of Cleaning and Janitorial Supplies	For Decision
<p>Summary:</p> <p>By Minute No 99 (16 December 2008), the Executive gave approval to the seeking of tenders and reserved the tender acceptance for this contract to the Executive.</p> <p>This report asks the Executive to approve the award of a framework agreement contract for the provision of cleaning and janitorial supplies, for a period of four years, with no option to extend the contract.</p> <p>This would be a consortium arrangement led by Barking and Dagenham, which is let on behalf of the London Contracts and Supplies Group (LCSG) and is currently used by 19 London Boroughs and can be accessed by any other London borough or London based public bodies e.g. Metropolitan Police, charities, Primary Care Trusts (PCTs) or universities.</p> <p>Wards Affected: None</p>	
<p>Recommendation(s)</p> <p>The Executive is recommended to agree the award of the Cleaning and Janitorial Supplies Framework Agreement to Bunzl Greenham on behalf of the London Contracts and Supplies Group (LCSG), on the terms set out in the report.</p>	
<p>Reason(s)</p> <p>In order to accord with statutory obligations and to ensure the Council has a cost effective and value for money contract awarded for the purchase of cleaning and janitorial supplies.</p>	
<p>Implications</p> <p>Financial</p> <p>The overall value of the framework agreement for all members of the LCSG that utilise this framework is approximately £2.9 million. Expenditure on cleaning and janitorial supplies by the Council with the incumbent supplier for the financial year 2008 / 2009 was approximately £185,000.</p> <p>The cost of cleaning and janitorial supplies purchased under this contract is met through standard operational revenue budgets of the user areas in accordance with their own budgetary controls</p> <p>The re-tender of this contract has offered a saving of £67,714.54 (approximately 3.5%) across the expenditure of all authorities that use the contract. This would equate to a</p>	

saving of approximately £6,500 for the Councils expenditure of £185,000 in 2008/09

Legal

The Council has power to enter into contracts for the supply of cleaning and janitorial supplies under section 1 of the Local Government (Contracts) Act 1997 on the basis that such supplies are properly required for the discharge of the Council's duties.

The Council's Contract Rules requires that every contract for services, supplies and works must be awarded in accordance with EU procurement law (where applicable), the Council's Financial Regulations, Contract Rules and Contract Code of Practice.

The EU Directive on public procurement (the Consolidated Directive) as implemented in the UK by the Public Contracts Regulations 2006 ("the Regulations") allows local authorities to enter into Framework Agreements with contractors.

The Framework Agreement to which this report relates has been advertised in the Official Journal of the European Union and the Open procedure followed.

Under Regulation 19(10) of the Regulations, local authorities can enter into framework agreements for periods which do not exceed 4 years. It is therefore proposed that this Framework Agreement is awarded for a maximum period of four years.

The Regulations require that a contract be awarded on the basis of lowest price OR most economically advantageous tender (MEAT) having regard to a number of relevant criteria. In this instance, the successful tenderer has been selected on the basis of the most economically advantageous tender submitted, in accordance with Regulation 30. The outcomes of the respective bids and officer recommendations are set out in the report.

In deciding whether to award contract, the Council must comply with the principles of administrative law including taking into account all relevant considerations, the outcome of the valuation of each of the tenders and their financial implications. In particular in order to comply with the Council's fiduciary duty and duty to deliver Best Value, the Council must be satisfied that the tenders represent value for money for the Council.

Contractual

The procurement process was carried out in accordance with the Council's Constitution, the Public Contracts Regulations 2006 and European Procurement Directive 2004/18/EC comprising of an advertisement in the Official Journal of the European Union (OJEU) followed by a single stage open procedure invitation to tender.

Risk Management - No specific implications

Staffing - No specific implications

Customer Impact - No specific implications

Safeguarding Children - No specific implications

Crime and Disorder - No specific implications

Property/Assets - No specific implications

Options appraisal

1. Do nothing. In line with the Councils Constitution, national and European law, a formal tender process was required for the aggregated level of expenditure expected for the various products that would be procured and therefore this option is not appropriate.
2. That Barking and Dagenham tendered its own contract for the supply of cleaning and janitorial supplies. This contract would still have been subject to similar time and cost implications as tendering for LCSG and would probably not deliver any better value given the economies of scale and purchasing leverage the consortium agreement valued at approximately £3 million is likely to achieve. Furthermore, the use of consortium contracts is encouraged by Central Government and Capital Ambition as a means of reducing purchasing costs whilst achieving better value for money.
3. That service users source their own cleaning and janitorial supplies in the wider marketplace. This could create a situation where there would be neither guarantee of the continuity of supply nor a guarantee of quality. Nor would there be any evidence that environmental, sustainable, health and safety, equalities and diversity or COSHH implications had been taken into consideration. This procurement route is unlikely to be cost effective and would also not be compliant with EU public procurement regulations regarding aggregation of spend within the Council.
4. Re-tender the contract. In line with the Councils Constitution, national and European public procurement regulation, a formal tender process is required for this level of expenditure. Following consultation with other local authorities that utilise the current framework agreement, the preferred option was to re-tender the contract in a similar format to the current contract. This would be in the form of a framework agreement awarded to a single supplier that will be able to meet all of the requirements of the contract. The framework agreement would establish terms with regard to delivery and pricing, in order that goods can be ordered and called-off as and when required to an agreed contract price.

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Report Author: Stephen Howells	Title: Procurement Officer	Contact Details: Tel: 020 8227 3907 Fax: 020 8227 5261 E-mail: stephen.howells@lbbd.gov.uk

1. Background

- 1.1 A framework agreement is used to establish the terms of a contract for price, specification and quality. Products and supplies would then be called off by the Council as required and delivered and invoiced by the supplier in accordance with

the terms of the agreement. There is no obligation to purchase any product or quantity under this arrangement.

1.2 This framework agreement will allow officers to procure cleaning and janitorial supplies as required, in accordance with the conditions and agreed prices as laid out in the framework agreement.

1.3 In accordance with EU Procurement Regulations the proposed framework agreement will be for a maximum period of four years.

2. Report detail

Tender Process

2.1 It is confirmed that the relevant provisions of the Council's Contracts Rules have been fully adhered to.

2.2 The contract was tendered in accordance with European Procurement Directive 2004/18/EC. A formal contract notice was published in the Official Journal of the European Union (OJEU) dated 22 May 2009 requesting expressions of interest from prospective suppliers.

2.3 In order to promote opportunities for small and medium enterprises (SME's) it was the intention to:

- advertise the contract in order to generate interest by using OJEU, supply2gov and the Councils website;
- evaluate supplier utilisation of SME's in the supply chain;
- evaluate how suppliers were meeting their corporate and social responsibilities (e.g. fair trade, ethical trading) as defined by the Ethical Trading Initiative (ETI)

2.4 Following receipt of expressions of interest from seventy one companies, all were sent tender documents electronically.

2.5 Tenders were received from eight companies within the deadline. Two companies were disqualified from the tender process as the packaging in which the tenders were contained had labels identifying them attached to the outside of the tender packaging, which is in breach of the Council's Contract Rules.

2.6 Six tenders were evaluated, received from the following companies: Alliance Disposables; Bunzl Greenham; Maintenance Supply Co; GLS – Findel; Wightman Parish; Janitorial Express

3. Tender Evaluation

3.1 As this procurement exercise is being carried out on behalf of the LCSG, the evaluation panel consisted of officers from the London Boroughs of Barking and Dagenham; Havering, Hackney, Newham and Camden.

- 3.2 Tenders were evaluated on a 60% price / 40% quality basis. The quality aspect of the tender was evaluated on the responses given to the questions, method statements and other criteria that were requested in the tender.

The 40% quality aspect of the tender was evaluated according to the following weightings:

20% Contract Management & Delivery
20% Equalities & Diversity
15% Health and Safety
15% Environmental Aspects
15% Offered Alternative Environmental Products
10% Technical & References
5% Quality Assurance

Each tender submission was be scored independently by each of the six attending Officers.

- 3.3 The scores achieved by the potential suppliers from the both the quality and price evaluation of the tenders are attached as **Appendix A** (in the Private and Confidential part of this Agenda). The recommendation based upon these results is to award the framework agreement to Bunzl Greenham.

Savings

- 3.4 The basket of goods used to evaluate the price aspect of the tender incorporated two separate factors - actual quantities of products purchased from the previous agreement core item pricelist in 2007/08 and the 150 most commonly purchased products purchased from the incumbent supplier over the same period.
- 3.5 Pricing the basket of goods, the total cost of the basket offered by Bunzl Greenham in their tender return equates to £1,899,200.68. The same basket of goods under the previous arrangement would have totalled £1,966,915.22. Therefore the re-tender of this contract has offered a saving of £67,714.54 across the expenditure of all authorities that use the contract or approximately 3.5%. This would equate to a saving of approximately £6,500 on the Councils expenditure of £185,000 with Greenham in 2008/09.
- 3.6 Savings achieved under this contract would be distributed across the many service users and revenue budgets that use the contract, for instance school kitchens, buildings cleaning and caretaking services. Corporate Finance will be working with other stakeholders such as Corporate Procurement towards developing an effective means of capturing the breakdown of the revenue budgets savings data in the future.
- 3.7 The terms of the contract have a set rebate agreement within the conditions of the agreement that is not negotiable. Based on the Councils expenditure of approximately £185,000 with the incumbent contractor, Greenham, for 2008/09, the level of rebate under the new agreement would have realised an approximate rebate of £11,100. This rebate is used for the management of the contract on behalf of the LCSG.

Contract Management

- 3.8 The management of this contract falls under the responsibility of the Corporate Procurement Team and officers within that Team are responsible for the various contract management tasks. This will include monitoring supplier performance and user satisfaction, gathering environmental information for reporting to London Remade; management and reporting as lead borough on behalf of London Contracts and Supplies Group (LCSG); monitoring pricing; uploading price information to Marketplace for use with on-line ordering.

4. Links to Corporate and other Plans and Strategies

- 4.1 In line with the One Barking and Dagenham principle of Business Process Engineering (BPR) methodology and approach, this framework was consulted with both users within LBBD and with Council Officers across a number of London Authorities who procured cleaning and janitorial supplies under the previous framework. By having Officers from other authorities involved in the process we are able to award a framework that best meets the requirements for both Barking and Dagenham and other local authorities on behalf of the LCSG

5. Consultees

- 5.1 The following were consulted in the preparation of this report:

Councillor Bramley - Cabinet Member for Finance and Human Resources
Sue Lees - Divisional Director of Strategic Asset Management and Capital Delivery
David Robins – Group Manager Corporate Procurement
Lee Russell – Group Manager Corporate Finance
Debra Nicholls – Senior Lawyer Procurement and Contracts, Legal Services
Maureen Lowes – Catering Services Manager
Michael Du-Lieu – Borough Cleaning Manager
John Hooton – Strategic Financial Controller
Yinka Owa, Legal Partner, Procurement, Property & Planning

6. Background Papers Used in the Preparation of the Report:

- 2004/18/EC European Procurement Directive
- Pre-Tender Report - Framework Agreement for the Supply of Cleaning and Janitorial Materials, Executive, 16 December 2008 (Minute 99)
- Tender Evaluation Spreadsheet

7. List of appendices:

Appendix A – Price and Quality Assessment Scores (in the Private and Confidential part of the agenda)

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