

KENT COUNTY COUNCIL –RECORD OF DECISION

DECISION TAKEN BY:

Peter Oakford, Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services

DECISION NO:

19/00023

For publication, with the exception of addendum note.

Key decision*

YES

This is a key decision, as it involves expenditure over £1m

Subject: Letting of the building contract for the Barton Court Academy Trust Free School Project Canterbury

Decision:

As Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services I agree to;

- award a building contract to Kier Construction Limited for the Main Construction Contract for the Barton Court Free School; and
- delegate authority to the Director of Infrastructure, in consultation with the Cabinet Member for Finance, Corporate and Traded Services, to finalise the contractual terms and enter into any associated documentation including the building contract, DfE Works Funding Agreement and DfE Development Agreement.

Reason(s) for decision:

KCC is delivering the construction of the new Barton Court Free School on the former Chaucer School site in Canterbury. The DfE has appointed KCC to act as the Local Delivery Agent (Responsible Body). As the Responsible Body, KCC will be the contracting authority for the purpose of delivering the scheme. The new school will be located on part of the former Chaucer School site, with the remainder allocated to the land disposal programme. The school's places are identified in the Kent Commissioning Plan to meet school demand in the area.

The previous Record of Decision, 19/00077 which was taken on 30 December 2019, related to entering into a JCT Minor Works building contract with Kier Construction for the enabling works. This decision relates to the Main Contract works for this project.

Reason for Urgency:

An urgent decision is required prior to the completion of the 28-day FED publication period and before the next available P&R Cabinet Committee meeting on 20 March 2020. This is in order to avoid further delay to the delivery programme, which would extend the period of time the school would have to spend in temporary accommodation after opening in September 2021. Delay would also cause the contractor to vacate the site at the end of the enabling works, causing KCC to incur demobilisation and remobilisation costs together with security costs for holding the vacated site. Further delay will also see the expiration of the Contractor's tender offer allowing them to claim increased inflation costs in accordance with the terms of the DfE framework. Delay to the current programme is also preventing the DfE from making payment to the Academy Trust of start-up funding grant, to offset the costs that they have invested to date.

Financial implications:

The main contract sum amounts to £20,690,642. This is funded by the Project Delivery Grant provided by the Department for Education. KCC applies for the grant on a stage by stage basis.

Legal Implications:

A Department for Education Bespoke Design and Build (2018 edition) building contract with Kier Construction for the Main Contract works will be entered into. This form of contract has been designed for use with procurements from the Department for Education Construction Framework 2017 and is suitable for Local Authorities and other public bodies.

Equalities Implications:

N/A

Cabinet Committee recommendations and other consultation:

The proposed decision was discussed by the Policy and Resources Cabinet Committee on 8 November 2019 and the proceedings were as follows:

- (1) Mr Oakford (Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services) and Mrs Spore introduced the report which set out information relating to letting of the building contract for the Barton Court Academy Trust Free School Project in Canterbury.
 - a) Mrs Spore and Mr Watts then responded to comments and questions from Members which related to Kier's performance as a contractor, projected delivery costs, the risks associated with the projects delivery and how the risks could be mitigated.
- (2) In the information set out within the report about sources of funding, Mrs Spore corrected one entry.
- (3) RESOLVED that the proposed decision to be taken by the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services to approve the award of building contracts to Kier Construction Limited for the Barton Court Free School be noted, and authority be delegated to the Director of Infrastructure in consultation with the Cabinet Member for Finance, Corporate and Traded Services to finalise the contractual terms and enter into any necessary documentation including land sale and development agreements.

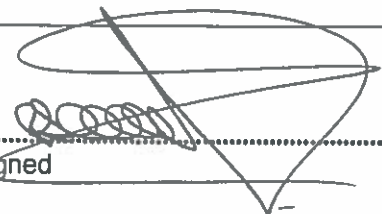
An updated exempt addendum note was circulated to Members of the Policy and Resources Cabinet Committee on 3rd March 2020 for information in regards to questions raised at the Policy and Resources Cabinet Committee on 8th November 2019 regarding performance of Kier and mitigating risks, no Member objections were received.

Directorate action:

In response to Cabinet Committee Member comments, further due work was undertaken to review and consider the contract and legal implications prior to this Phase 2 decision being progressed.

Any alternatives considered: Hand back the project to the DfE to deliver – dismissed, as would delay the process of forming the new school by the DfE and Academy Trust and put at risk the delivery of school places as required by the Kent commissioning plan. KCC would be responsible for funding any costs associated with the provision of school places should the build be delayed or not proceed.

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:


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signed

.....12 MARCH 2020.....
date