

# LONDON BOROUGH OF HAMMERSMITH & FULHAM

**Report to:** Bram Kainth, Strategic Director of the Environment

**Date:** 27/04/2023

**Subject:** Alternative Ecological Mitigation at Wormwood Scrubs Contractors Procurement

**Report of:** Steve Hollingworth, Assistant Director Leisure, Sport and Culture

**Report author:** Vicki Abel, Wormwood Scrubs Development Manager

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## SUMMARY

This report is seeking approval of a procurement strategy for the implementation of the Alternative Ecological Mitigation (AEM) Masterplan capital works and 10 Year Management and Maintenance Plan (MMP) for Wormwood Scrubs. These proposals are required to fulfil a legal agreement between the council and High Speed Two Limited (HS2) to improve biodiversity.

This project will contribute to Council priorities and aspirations, including becoming the country's greenest borough and 'rising to the challenge of the climate and ecological emergency'.

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## RECOMMENDATIONS

1. To approve the Procurement Strategy for the appointment of a contractor to implement the capital works in the AEM Masterplan and 10 Year Management and Maintenance Plan (MMP).
  2. That delegated authority be granted to the Strategic Director of the Environment in consultation with the Cabinet Member for the Environment, to award the contracts for appointment of the contractor the costs of which will be reimbursed by HS2.
  3. To note that Appendix 1 not for publication on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
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**Wards Affected:** College Park and Old Oak

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Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	This proposal could potentially create supply opportunities for local

	businesses and skills/employment opportunities for local residents.
Creating a compassionate council	Improved biodiversity and access to nature will play a part in the new H&F Health and Wellbeing Strategy. Access to good and varied leisure activities is proven to support the strategy's key aims of; supporting good mental health for all, supporting children and their families to be healthier, and reversing the rising numbers of acquired long term health conditions.
Doing things with local residents, not to them	Consultation has taken place with key stakeholders including The Wormwood Scrubs Charitable Trust, and the Friends of Wormwood Scrubs along with consultation events to engage with local residents. Officers will continue to consult with Friends groups, residents and stakeholders to build community cohesion in the development of ecological improvements on the Scrubs.
Being ruthlessly financially efficient	Funding of these proposals by HS2 provides the best available opportunity to put appropriate design and management of biodiversity in place on the Scrubs. A contract will be awarded to the most economically advantageous tender through an open tender on the Councils Capital E-sourcing Portal. On-going maintenance will be included in for the first 10 Years after which time the management and maintenance will be funded by the WSCT.
Taking pride in H&F	By supporting the aims to make the borough the greenest in Britain.
Rising to the challenge of the climate and ecological emergency	By supporting endangered bat and beetle populations, planning the best places for trees and dedicating space for long grass and wildflowers as the basis for educational opportunities for children and schools.

## Financial Impact

This report requests approval of the procurement strategy only, for which there are no financial implications. The resulting contract award will be the subject of a separate report, including financial implications. For information, secured High Speed Two Ltd funding is available to fund the proposed project at no cost to the Council.

*Completed by Carmen Lomotey, Principal Accountant (Environment), 21 April 2023  
Verified by Andre Mark*

## **Legal Implications**

This report is seeking approval for a procurement strategy for the appointment of a contractor for capital works. The works are to be carried out at Wormwood Scrubs and are designed to provide alternative ecological mitigation. The works will be fully funded by High Speed Two Limited.

The report recommends procuring a contractor by carrying out an open procurement process. This meets the requirements for High Value Contracts in the Council's Contract Standing Orders.

The decision is a Key Decision (see Article 12 of the Council's Constitution) and the report must be submitted to Committee Services for publication on the Council's website.

*Angela Hogan, Chief Solicitor (Contracts and Procurement) 11th April 2023*

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## **Background Papers Used in Preparing This Report**

None.

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## **DETAILED ANALYSIS**

### **Background**

1. Wormwood Scrubs, known locally as 'the Scrubs' is the largest open space in the London Borough of Hammersmith and Fulham and has been public open space since the Wormwood Scrubs Act of 1879. Its history shows it has been protected from development and subject to a wide range of uses leaving a unique multi-faceted space that is at once both underused and under pressure.
2. The eastern side of the Scrubs is predominantly mown grass laid out mainly as football pitches which, together with the adjacent Linford Christie Stadium and Pony Centre, provide significant recreational opportunities. The western side of the Scrubs is identified as a Site of Importance for Nature Conservation (SINC), predominantly unmown grassland and scrubland with significant, developing biodiversity opportunities.
3. Many residents and visitors take the opportunity to walk or jog on the Scrubs appreciating access to both nature and recreational opportunities. As the number of residents and users within the Old Oak & Park Royal Development Corporation (OPDC) area increases, there will be increased demand and pressure on these activities. This pressure will be felt most on sensitive wildlife habitats if appropriate design and management is not in place.

4. The construction of the HS2 line within the OPDC area has led to a legal agreement dated 20<sup>th</sup> October 2016 (the Agreement) between the Sec. of State for Transport and the council. This sets out the requirements to design alternative ecological mitigation for the Scrubs to that set out in the HS2 Bill. The funding of these proposals by HS2 provides the best available opportunity to put appropriate design and management of biodiversity in place on the Scrubs.
5. Following consultation with local residents and stakeholders including the Friends of Wormwood Scrubs, WSCT, HS2 and OPDC the AEM Masterplan for Wormwood Scrubs was approved by WSCT on 8<sup>th</sup> March 2023.

## **Reasons for Decision**

6. The procurement of the works will comply with the requirements contained in Contract Standing Orders, which requires approval before a regulated procurement exercise is commenced, and to comply with the Promotors requirement to achieve value for money.
7. Both WSCT and the Parks Department are keen to move this project into delivery phase as soon as possible. LUC Landscape Architects were previously appointed to produce; a conservation management plan, detailed draft proposals, specifications and a 10-year management plan. With the AEM Masterplan now approved LUC can commence work on drawing up detailed design packages and tender documents. This work is included in LUCs original contract as Lead Consultant on the project.
8. Approval of this report will allow the project to proceed promptly. It is anticipated that tender documents will be ready in Summer 2023 allowing the tender to run over Summer/Autumn and the winning tendered to be appointed in late Autumn. This will allow landscaping work to take place between Winter 2023 and Winter 2024.

## **Contract Specifications Summary**

9. The service being procured is the implementation of the capital works specified in the AEM Masterplan and the management and maintenance of those proposals as specified in a ten-year maintenance and management plan as a 5+5 year contract.
10. The works will be let as single 5+5 year contract. The implementation of the capital work is estimated as 12 months followed by 4 years defects liability period. There would then be a break clause before a 5-year management and maintenance phase. The AEM proposals require a 10-year Management and Maintenance Plan with biodiversity surveys. A break clause would allow the management of this phase to be separate from or together with the Boroughs Grounds Maintenance Contract for Wormwood Scrubs as a whole.

11. A single contract for the implementation of the AEM capital works proposals and 10 Year Management and Maintenance Plan (MMP) would be simpler and more efficient to manage.
12. If additional services such as engineering are required these could be as a subcontractor to the lead contractor. Generally, the plan to have the same contractor constructing the on-site capital works and maintaining them is considered as a benefit as this would produce a consistency of approach.
13. The overall total price for the contract will be broken down into the capital works (AEM proposals) and the 10 Year Management and Maintenance Plan (MMP).

## **Procurement Route Analysis of Options**

9. The following options have been reviewed:

**Option 1:** Conduct an open tender to undertake a competitive procurement process for the landscape contractor for the implementation of the capital works and Management and Maintenance Plan and invite quotes from multiple contractors. This would be carried out through the Capital E-Sourcing portal in line with the Council's Contract Standing Orders, Section D.

**Option 2:** Use of an existing Framework. The frameworks detailed in the Crown Commercial Services, East Shires Purchasing Organisation and Yorkshire Purchasing Organisation have been reviewed and no applicable framework was identified.

**Option 3:** The capital works and management and maintenance plan could be added to the current Grounds Maintenance contract however some of the work is considered to be quite specialist so it is preferable to tender the work more widely.

**Option 4:** Fail to appoint a contractor or do nothing. The construction of the HS2 line within the OPDC area has led to a legal agreement dated 20<sup>th</sup> October 2016 (the Agreement) between the Sec. of State for Transport and the council. This sets out the requirements to implement alternative ecological mitigation for the Scrubs to that set out in the HS2 Bill. The funding of these proposals by HS2 provides the best available opportunity to put appropriate design and management of biodiversity in place on the Scrubs.

- 10 Overall the route that best meets the Councils objectives of flexible, rapid delivery that provides value for money is to procure a contractor through an open public procurement process (Option 1).

## **Market Analysis, Local Economy and Social Value**

- 11 The market for landscape installation, management and maintenance is well developed, with many suitable organisations on CapitalE sourcing. It is

expected that the Council will receive strong tender response to this opportunity. The contract will also be advertised on Contracts Finder.

- 12 This proposal could potentially create supply opportunities for local businesses and skills/employment opportunities for local residents. Most of these are likely to be identified with the procurement of the contractor.
- 13 Community engagement will form part of the evaluation criteria and it is expected that the on-going 10-year Management and Maintenance Plan (MMP) will include an activities plan, encouraging volunteering and a range of community engagement events.
- 14 Procurement will follow the usual Council procurement processes via Capital E-Sourcing and suitable local contractors will be identified and actively encouraged to apply.

### **Risk Assessment and Proposed Mitigations**

- 15 The project has a dedicated project manager in the Wormwood Scrubs Development Manager and will also be over seen by the Senior Parks Manager.
- 16 The Council has appointed Pick Everard cost consultants to advise on cost estimates and procurement strategy. Their initial estimates for the AEM works are higher than those in the project plan. There is provision for HS2 to increase the budget of the AEM works but only after tenders have been received.
- 17 Should tenders received be above the original project plan estimates we will need to negotiate an increase of funding with HS2 and liaise with WSCT to confirm funding arrangements for the management plan. This is likely to add at least 4 weeks to the timetable.
- 18 The Council has appointed Land Use Consultants, Landscape Architects to design and contract manage these works on site and assist in the appointment of a suitably skilled and experienced landscape contractor to deliver the project works and MMP.

### **Timetable**

The timetable below shows the length of time for each stage of the procurement process which is likely to take approximate 6 weeks from the tender going live on the eProcurement system.

Key Decision Entry (Strategy)	16 <sup>th</sup> March 2023
Contracts Assurance Board (Strategy)	3 <sup>rd</sup> May 2023
SLT/Cabinet Member/Cabinet Sign off (Strategy)	5 <sup>th</sup> May 2023

Find a Tender Service Notice	Tender goes live on eProcurement system
Closing date for clarifications	4 weeks
Closing date for submissions	1 week
Evaluation of Tenders	2 weeks
Key Decision Entry (Award)	2 weeks
CAB (Award)	3 weeks
SLT/Cabinet Member (Award)	1 week
Find a Tender Service Contract Award Notice	2 weeks
Contract engrossment	4 weeks
Contract mobilisation and implementation	6 weeks
Contract Commencement date	1 week

## Selection and Award Criteria

### 19 **Quality proposals (60%) to be based on:**

Bidders will be expected to provide information regarding: programme of works, risk management, method statement and local investment. Social value will be a requirement of this contract and suppliers will be expected to supply 10% of social value to the value of the contract.

### **Price proposals (40%) to be based on:**

*Bidders will be expected to provide a single cost for carrying out the construction works and a single cost for the 10 Year Management and Maintenance Plan.*

## Contract Management

- 20 Standards will be defined within the specification and works on site will be administered by LUC Landscape Architects.
- 21 Work will be monitored and assessed at regular site meetings between the contractor, LUC and Wormwood Scrubs Development Manager.
- 22 The 10 Year MMP will be reviewed after the first four years to monitor quality of maintenance and also to assess the cost of the work against inflation and consider the value of bringing the management and maintenance in-house.

## Equality Implications

- 23 An Equality and Impact Assessment has been completed.
  - A wide range of age groups will benefit from being able to visit and volunteer on the Scrubs.

- The needs of disabled users will be considered and the proposals include the construction of firm surfaced paths to assist with access for those with mobility issues.
- The project does not discriminate and will not affect Human rights or children's rights.
- By improving access onto the Scrubs the project makes a positive contribution to equalities.

## **Risk Management Implications**

- 24 The report recommends procuring a contractor to deliver the required works and carry out maintenance for a 10 year period, via an open competition. This is in line with the objective of being ruthlessly financially efficient. Officers should ensure that the delivery of the contract is in line with the conditions regarding HS2 reimbursement of costs and within the agreed budget envelope.

*David Hughes, Director of Audit, Fraud, Risk and Insurance, 14 April 2023*

## **Climate and Ecological Emergency Implications**

- 25 The ecological proposals will expand capacity in the local community to learn about and take part in projects which benefit climate change and biodiversity on site. It also allows them to take that knowledge and apply it to their lives.
- 26 The proposals in the AEM masterplan will greatly increase the biodiversity values of the site. This will be measured by Biodiversity Net Gain surveys before and after the site works.
- 27 The 10 Year Management and Maintenance Plan will ensure the improvements made as part of the capital works will be managed for long term biodiversity benefit.
- 28 Achieving a significant increase in biodiversity on the scrubs whilst balancing the need for providing recreational space to an increasing local population is a challenging agenda. Increased engagement of the community through practical tasks such as surveys, walks or conservation activities in conjunction with a variety of external stakeholder groups (eg TCV or the RSPB) will be vital to embed conservation and biodiversity into the identity of the scrubs.
- 29 Ongoing monitoring of biodiversity on site is a key part of this masterplan. This is traditionally very difficult to build into funding models so a lot of thought will have to go in to making sure there are funds to continue this fully to the end of the 10 year requirement. A 5 year break clause will be helpful to use as a review opportunity for checking that monitoring requirements are being met.

*Hinesh Mehta, Head of Climate Change, 18 April 2023*



## **Local Economy and Social Value Implications**

- 30 Paragraph 19 in this strategy commits the procurement will adhere to the council's Social Value Policy and the successful bidder must deliver social value measures to a proxy value of 10% of the price of the contract. In addition, social value proposals should account for 10% of the overall score (16.7% of the Quality score in this case).
- 31 Paragraph 12 refers to economic development opportunities which bidders may be directed to in the ITT when making their social value proposal. It is recommended that the project lead for each contract works closely with LBHF's Social Value Officer and the commissioner to agree and support the delivery of a social value plan soon after the award.
- 32 It is recommended that the commissioner works closely with Legal Services to ensure appropriate social value clauses are included in the contract, so that the council can enforce its right to remedies if social value commitments are not delivered.

*Paul Clarke, Social Value Officer, 5 April 2023*

## **Consultation**

- 33 Consultation has taken place with key stakeholders including The Wormwood Scrubs Charitable Trust, and the Friends of Wormwood Scrubs along with consultation events to engage with local residents. Officers will continue to consult with Friends groups, residents and stakeholders to build community cohesion in the development of ecological improvements on the Scrubs.

## **List of Appendices:**

Exempt Appendix 1 – Exempt financial information  
Appendix 2 – Equality Impact Analysis  
Appendix 3 – Climate implications toolkit