


| | |
|--|---|
| <p>London Borough of Hammersmith & Fulham</p> <p>CABINET</p> <p>4 JUNE 2018</p> |  |
| <p>CONSTRUCTION OF VEHICLE ACCESS POINTS OUTSIDE THE FORMER BBC TELEVISION CENTRE SITE</p> | |
| <p>Report of the Cabinet Member for the Environment - Councillor Wesley Harcourt</p> | |
| <p>Open Report</p> | |
| <p>Key Decision: Yes</p> | |
| <p>Other services consulted: None.</p> | |
| <p>Wards Affected: Shepherd's Bush Green and College Park and Old Oak</p> | |
| <p>Accountable Director: Mahmood Siddiqi – Bi-borough Director Highways & Parks</p> | |
| <p>Report Author: Michael Masella – Senior Engineer</p> | <p>Contact Details: Tel: 020 8753 3082 E-mail: michael.masella@lbhf.gov.uk</p> |

1. EXECUTIVE SUMMARY

- 1.1. In order to fulfil the requirements of the agreement, the council is required to construct the three new crossovers. This report seeks approval to commission utility lowering works and construct 3 no. vehicle access points outside the former BBC Television Centre on Wood Lane W12. Full funding for these works is provided through the S106 agreement put in place as part of the planning permission for the re-development of the site.

2. RECOMMENDATIONS

- 2.1. To approve the works costs for lowering of the statutory undertaker apparatus (i.e. gas, electric, water, telecom etc. services) and the construction of three permanent vehicle access points to the former BBC Television Centre, Wood Lane, W12 to council standards.
- 2.2. To directly award a works contract for lowering of services to Reach Active Limited specialist contractor in this field, who will co-ordinate all the statutory diversions with the companies and carryout all of the construction works at a cost of £219,585.

- 2.3. To approve the waiver of the Council's contract standing orders in relation to the direct award of the contract to Reach Active Limited for the reasons set out in paragraph 3.2, 3.3 and 3.4 below.
- 2.4. To approve the construction of the highway works will be carried out by FM Conway Ltd as the Council's framework contractor.
- 2.5. To include the scheme within the capital programme, at an estimated total cost of £530,102, with funding from a section 106 contribution.

3. REASONS FOR DECISION

- 3.1. The former BBC Television Centre site has undergone a comprehensive redevelopment of the site to provide residential units with a range of land uses. Temporary vehicle access points were constructed in November 2015. The new residential units are being occupied and a new hotel will be opening very shortly. Therefore, there is an urgent need to provide permanent vehicular access from the public highway, on the west side of Wood Lane.
- 3.2. Rather than commissioning each of the statutory undertakers individually, awaiting their programmes and individual excavations of the public highway. A direct award of the works to Reach Active Limited is recommended because of the specialist nature and urgency of the works. Reach Active Ltd is an approved supplier and has previous experience of working in the borough on other projects and have an established relationship with the Council's Network Management Team.
- 3.3. The limited site conditions and the need to construct the accesses as quickly as possible mean that it is not practical to arrange for individual statutory undertakers to lower their services independently. Reach Active Ltd.'s extensive knowledge of the development and site conditions will allow for all of the services to be lowered in one operation. Previous experience demonstrates this working arrangement reduces the overall cost and the inconvenience to the public by reducing the number of individual excavations.

4. PROPOSAL AND ISSUES

- 4.1. In 2015 planning permission was granted to redevelop the former BBC Television Centre site on the western side of Wood Lane (reference 2014/02531/COMB).
- 4.2. This included the demolition of parts of the former BBC Television Centre, associated buildings and structures (including boundary walls) to facilitate comprehensive phased redevelopment of the site to provide up to 943 residential units with a range of land uses.
- 4.3. The Heads of Terms set out in the S106 agreement included highway improvements (Area 1 - Wood Lane outside the former BBC Television Centre).

- 4.4. The highway works include the removal of three temporary industrial type vehicle access points, lowering of all affected statutory undertaker apparatus (i.e. gas, electric, water, telecoms etc. services).
- 4.5. The three crossovers are located in an area of Wood Lane that is heavily congested with statutory undertaker's services. The Council is seeking to appoint Reach Active Limited as a specialist utility contractor to undertake all activities relating to the diversion of these services to enable construction of the vehicle access points. This will include project management and co-ordination with individual utility companies as well as undertaking all of the necessary excavation, lowering or slewing of affected utility infrastructure and subsequent reinstatement.
- 4.6. The three new permanent vehicle access points will be constructed to the Council's streetscape design guide and repave the footway 5 metres either side of each access point in York stone.

5. CONSULTATION

- 5.1. A consultation has been conducted as part of a planning application process and permission has been granted for the development.

6. EQUALITY IMPLICATIONS

- 6.1. The Council has had regard to its public sector equality duty contained in Section 149 of the Equality Act 2010. Hammersmith and Fulham Action on Disability (AOD) will be consulted on the proposed highway works. It is not anticipated that there will be any negative impacts on any other groups with protected characteristics.
- 6.2. Implications verified/completed by: **Peter Smith**, Head of Policy & Strategy, tel. 020 8753 2206.

7. LEGAL IMPLICATIONS

- 7.1. The terms of the 2015 Agreement (**reference 2014/02531/COMB**) (Schedule 3) define the nature of the highway works for the purposes of Area 1 and Area 2 of the development known as the "Area 1 and Area 2 highway works". It is noted that The works subject to the provisions of this report are discussed at paragraphs 4.4 and 4.6 above and fall within the scope of the definition and are therefore permitted.
- 7.2. In accordance with clause 2 of Schedule 10 of the 2015 Agreement the Council covenants to carry out the highways works, in a timely manner and in the terms expressed but must first receive the Owners written notice. Upon completion of the works the Council must issue the Owner with a certificate of substantial completion as soon as reasonably practicable.

- 7.3. The 2015 Agreement provides a mechanism whereby the cost of the highway works is to be covered by a highway works budget in the sum of £2,900,000. It is noted that the estimated costs of these highway works of £530,102.00 fall within this amount. However, Cabinet is advised that there is provision in the 2015 Agreement which allows the Council to effectively charge the Owner where the costs of those works exceed the total costs of the highway works budget by way of a shortfall, provided, that the Council furnishes the Owner with appropriate evidence justifying the additional expenditure incurred.
- 7.4. The Owner has agreed to provide an indemnity to the Council against all claims under Part I and Part II of the Land Compensation Act 1973 in respect of the Council undertaking the highways works subject to applying any monies (if any) from the highway works budget in the first instance so the Council is protected from any third-party claims.
- 7.5. In the case of a dispute between the parties concerning the highway works or any other aspect of the 2015 Agreement the parties are encouraged to settle the dispute between themselves under clause 10. This is to be done at local level first with the appointment of an expert where agreement cannot be reached. This procedure may involve a costs implication to the Council, which is to be determined by the appointed expert.
- 7.6. Section 278 of the Highways Act 1980 allows a developer to carry out works to the public highway. This is generally necessary where planning permission has been granted for a development that requires improvements to, or changes to, public highways which includes the highway works detailed above.
- 7.7. Section 1 of the Localism Act 2011 grants Council's a General Power of Competence whereby a Local Authority has power to do anything that individuals generally may do, including the use of funds received from planning obligations to seek approval to commission utility lowering works and the construction of three new vehicle access points outside the former BBC Television Centre site. This power can be used even if legislation already exists that allows a Local Authority to do something. However, the General Power of Competence does not enable a Local Authority to do anything which it is unable to do by virtue of a pre-commencement limitation. The Council is not aware of any limitation or restriction in this case that would prevent the completion of the highway works in the circumstances as set out above.
- 7.8. Any changes to on street parking places will be carried out in accordance with the Road Traffic Regulation Act 1984 and the provisions of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 which includes advertising and a consultation process. The combined Section 106 (Town and Country Planning Act 1990)/Section 278 (Highways Act 1980) agreement will enable the Council to carry out the works on behalf of the developer.
- 7.9. Implications verified/completed by: Horatio Chance, Senior Solicitor and Deputy Team Leader, tel. 020 8753 1863.

Legal Procurement implications

- 7.10. It is noted that it is proposed to directly award a contract to Reach Active Limited at a value of £219,585. The value of these works falls below the threshold for full compliance with the Public Contract Regulations 2016 (the “Regulations”). Having not advertised the opportunity elsewhere, there is no obligation under Part 4 the Regulations to advertise the opportunity on Contracts Finder. However, the Council’s Contract Standing Orders (CSO 10.2) require that works and construction related matters are either procured through an appropriate existing contract or framework or that the opportunity is listed on using the Council’s e-tendering system (CapitalEsourcing) and on Contracts Finder. As this approach is not being taken a waiver of contracts standing order is required in accordance with CSO 3.1.
- 7.11. Where the contract is valued at over £100k (as is the case here) the waiver should be given by the appropriate Cabinet Member and the Leader of the Council. A departmental record of the decision approving the waiver and the reason for it should be kept.
- 7.12. The appointment of FM Conway Limited under the Council’s existing term contract is accordance with the Council’s contract standing orders.
- 7.13. Implications completed by: **Cath Tempest**, Senior Solicitor (Contracts), tel. 020 8753 2774.

8. FINANCIAL IMPLICATIONS

- 8.1. The Council has received S106 funding from the developer Stanhope Plc which is to be used to fund these highway works. There are sufficient S106 funds for these specific works, therefore there are no financial implications.
- 8.2. The estimated costs of the works are as follows:

| | |
|-----------------------------------|-------------|
| Reach Active Ltd | £219,585.00 |
| Transport for London (link cable) | £2,500.00 |
| British Telecom | £3,105.00 |
| Vodafone | £4,000.00 |
| Colt | £9,490.00 |
| UKPN* | £57,146.00 |
| Verizon* | £38,717.00 |
| Vodafone* | £27,368.00 |
| Chroma Vision | £20,000.00 |

*Statutory undertakers estimate of additional equipment and /or supervision cost

| | |
|---|-------------|
| Installation of three new permanent industrial standard granite sett vehicle access points to LBHF street-smart standards | £100,000.00 |
|---|-------------|

| | |
|------------------|--------------------|
| Subtotal: | <u>£481,910.00</u> |
| 10% contingency: | £48,191.00 |
| Total costs | <u>£530,102.00</u> |

- 8.3. Implications verified/completed by: **Gary Hannaway**, Head of Finance, tel: 0208 753 6071.

9. IMPLICATIONS FOR BUSINESS

- 9.1. The construction of three permanent vehicle access points will be carried out by the council's term contractor FM Conway Ltd. Local businesses will have been consulted via the planning process. FM Conway Ltd. is already working with the Economic Development Team to identify and maximise any business opportunities for local SMEs and employment and skills opportunities for local residents.
- 9.2. Reach Active Limited is a specialist company which will be carrying out the lowering of the statutory undertaker apparatus (i.e. gas, electric, water, etc. services) on behalf of the Council before FM Conway Ltd. can construct the new vehicle access points. The commissioning manager, Reach Active Limited and the Economic Development Team will explore the scope for additional business opportunities for local SMEs and employment and skills opportunities for local residents.
- 9.3. Implications verified/completed by: **Albena Karameros**, Economic Development Team, tel. 020 7938 8583.

10. COMMERCIAL IMPLICATIONS

- 10.1 There are no procurement related issues as the order is to be placed with FM Conway PLC (the council's highway term contractor).
- 10.2. Implications verified/completed by: **Jem Kale**, Head of Commercial Operations Executive Services, tel. 0208 753 2370.

11. IT IMPLICATIONS

- 11.1. There are no IT implications contained within this proposal.
- 11.2. Implications completed by: **Veronica Barella**, interim Chief Information Officer, tel. 020 8753 2927.

12. RISK MANAGEMENT

- 12.1. Works need to be undertaken to ensure there is appropriate access to the site following recent development of a hotel and residential units on the site.

- 12.2. Officers have identified a speciality utility contractor for the relocation of the statutory undertaker apparatus (i.e. gas, electric, water, etc. services) to mitigate the risk of damage or disruption in carrying out the works.
- 12.3. Officers need to ensure that consultation with Hammersmith and Fulham Action on Disability (AOD) on the proposed highway works is completed before the work commences.
- 12.4. Implications verified/completed by: **David Hughes**, Director of Audit, Fraud, Risk and Insurance, tel. 020 7361 2389.

13. BACKGROUND PAPERS USED IN PREPARING THIS REPORT

| No. | Description of Background Papers | Name/Ext of holder of file/copy | Department/ Location |
|-----|----------------------------------|---------------------------------|----------------------|
| | None. | | |

LIST OF APPENDICES:

Appendix A - Arup Drawing no_TVC-AR-X-XX-DR-C-8011

Appendix B - Arup Drawing no_TVC-AR-X-XX-DR-C-8103