

Merton Council

Cabinet Agenda

Membership

Councillors:

Stephen Alambritis (Chair)
Mark Allison
Tobin Byers
Caroline Cooper-Marbiah
Nick Draper
Ross Garrod
Edith Macauley MBE
Katy Neep
Martin Whelton

Date: Monday 11 December 2017

Time: 7.15 pm

**Venue: Committee rooms C, D & E - Merton Civic Centre, London Road,
Morden SM4 5DX**

This is a public meeting and attendance by the public is encouraged and welcomed.
For more information about the agenda please contact
democratic.services@merton.gov.uk or telephone [020 8545 3616](tel:02085453616).

All Press contacts: press@merton.gov.uk, 020 8545 3181

Cabinet Agenda

11 December 2017

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Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. If members consider they should not participate because of a non-pecuniary interest which may give rise to a perception of bias, they should declare this, withdraw and not participate in consideration of the item. For further advice please speak with the Assistant Director of Corporate Governance.

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Agenda Item 3

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at www.merton.gov.uk/committee.

CABINET

13 NOVEMBER 2017

(7.15 pm - 8.13 pm)

PRESENT: Councillors Stephen Alambritis (in the Chair), Mark Allison, Tobin Byers, Caroline Cooper-Marbiah, Nick Draper, Ross Garrod, Edith Macauley MBE, Katy Neep and Martin Whelton

ALSO PRESENT: Councillor Daniel Holden, Abigail Jones and Abdul Latif

Hannah Doody (Director of Community and Housing), Caroline Holland (Director of Corporate Services), Chris Lee (Director of Environment and Regeneration), Yvette Stanley (Director, Children, Schools & Families Department), Paul Evans (Assistant Director of Corporate Governance), David Keppler (Head of Revenues and Benefits) and Bronwen Pickering (Senior Communications Officer - Media Relations)

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies were received from the Chief Executive.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: That the minutes of the meeting held on 16 October 2017 were agreed as an accurate record.

4 COUNCIL TAX SUPPORT SCHEME 2018/19 (Agenda Item 4)

The Cabinet Member for Finance introduced the report, which set out proposed changes to the Council Tax Support Scheme for 2018/19, and noting the wish to continue to provide some financial assistance to working families and others on low incomes.

There was some concern expressed that the proposal to restrict personal allowances to families with more than 2 children would result in those families having to pay more Council Tax. It was felt that those families should not be penalised and protected if possible. Therefore it was proposed to amend the recommendation to not implement that restriction.

RESOLVED:

1. That the uprating changes for the 2018/19 council tax support scheme detailed in the Cabinet report be agreed, in order to maintain low council tax charges for those on lower incomes and other vulnerable residents including not to implement restricting personal allowances for households with more than two children; and
2. That Cabinet recommends to Council the adoption of the new 2018/19 scheme.

5 FINANCIAL MONITORING REPORT 2017-18 - SEPTEMBER 2017 (Agenda Item 5)

The Cabinet Member for Finance introduced the report, noting the low overspend and the efforts to reduce the overspend further; and noting that the report was also due to be considered by the Financial Monitoring Task Group.

RESOLVED:

1. That financial reporting data relating to revenue budgetary control, showing a forecast net overspend at year end of £1.6million, 0.3% of the gross budget be noted.
2. That Cabinet and Council approve the following adjustments to the Capital Programme:

Scheme	2017/18 Budget	2018/19 Budget	Funding/Re-profiling
£		£	
Corporate Services			
Invest to Save schemes	(1,710,000)	1,710,000	Re-profiling in accordance with projected spend
Children, Schools & Families			
Sherwood Schools Capital maintenance	82,510	0	Essential H&S Works
Cricket Green School Expansion	272,070	5,028,000	Vired from Unlocated SEN
Unlocated SEN	(272,070)	(5,028,000)	Vired to Cricket Green
Harris Academy Wimbledon	(544,530)	544,530	Re-profiling in accordance with projected spend
Harris Academy Merton	(70,120)	0	Capital Budget will be utilised under the Better Care Fund
Environment & Regeneration			
Industrial Estates	(452,750)	0	Budget relinquished as no plans to spend
Morden Leisure Centre	(1,255,830)	1,255,830	Slippage to 18/19 in line with current build programme.
Total	(3,950,720)	3,510,360	

3. That in respect of capital expenditure incurred before 1 April 2008, Cabinet recommends to the Council that the Minimum Revenue Provision Policy be revised to read:

“For capital expenditure incurred before 1 April 2008 or by Supported Capital Expenditure, the MRP policy will be the equal annual reduction of 2% of the outstanding debt at 1 April 2017 for the subsequent 50 years”

The remainder of the MRP Policy Statement will remain as approved by Council on 1 March 2017.

6 CROSSOVERS TASK GROUP REPORT (Agenda Item 6)

The Cabinet Member for Regeneration, Environment and Housing introduced the report which set out recommendations for reviewing the current Crossovers Policy, thanking the Task Group for their work on this subject which was an area of concern to a number of residents.

The Director of Environment and Regeneration welcomed the work of the Task Group as there were complex issues involved with significant implications for the environment. Officers would seek to influence the development of the Mayor's London Plan to reduce the loss of green space and look at reviewing the Council's guidance to mitigate any adverse effects on air quality.

RESOLVED:

1. That the report and recommendations (attached in Appendix A) arising from the scrutiny review of Crossover Policy in Merton be noted.
2. That the implementation of the recommendations through an action plan being drawn up by officers working with relevant local partner organisations and the Cabinet Member for Regeneration, Environment and Housing be agreed.
3. That the action plan be formally approved by Cabinet prior to it being submitted to the Sustainable Communities Overview and Scrutiny Panel.

7 REFERENCE ON THE CONTRACT WITH VEOLIA FOR WASTE, RECYCLING AND STREET CLEANING (Agenda Item 7)

The Cabinet Member for Street Cleanliness and Parking introduced the report which set out a series of recommendations made by the Sustainable Communities Overview and Scrutiny Panel on Veolia's performance in respect of waste, recycling and street cleaning.

At the invitation of the Chair, Councillor Abigail Jones, Chair of the Sustainable Communities Overview and Scrutiny Panel presented the report, thanking her Vice-Chair and the members of the public and officers who had contributed to the meeting.

The Chair thanked the Scrutiny Panel and welcomed the recommendations, stressing the importance of impressing on Veolia the need to improve their performance.

RESOLVED:

- 1 That the comments made by the Sustainable Communities Overview and Scrutiny Panel set out in paragraph 2.4 of the Cabinet report be noted and endorsed.

8 EXCLUSION OF THE PUBLIC (Agenda Item 8)

The Leader asked members to note that a redacted version of item 9 had been published; and proposed that although the item had exempt appendices, Cabinet would not discuss either the redacted information or the exempt information contained in those appendices and could therefore stay in public session.

RESOLVED:

1. That Cabinet would remain in public session to consider item 9; and
2. That the public be excluded from the meeting during consideration of item 10 on the grounds that it is exempt from disclosure for the reasons stated in the report.

9 BATTLE CLOSE (Agenda Item 9)

The Cabinet Member presented the report, which set out a proposal to authorise the surrender of the leasehold interest in Virgin Active Health Club, Battle Close, SW19 1AQ on the main terms identified within the Cabinet report. It was noted that the Council remained committed to providing leisure space for families, and that taking back control of the site would provide the Council with an opportunity to consider its future including possible development.

At the invitation of the Chair, Councillor Abdul Latif addressed the Cabinet on behalf of residents in his ward, who were concerned over the loss of a leisure facility and over a possible redevelopment of the site for high density housing; and therefore requested that the current leaseholder be forced to honour the lease.

The Director of Environment and Regeneration advised the Cabinet that the request to surrender the lease had been made by the current leaseholder, who did not consider the Battle Close site to be one which they could any longer operate. Therefore the Council had a duty as the landowner to consider that request. The Council did not have the authority to force the current operator to remain open.

Cabinet Members highlighted the need to distinguish between the decision to relinquish the lease; and the future use of the site which did not form part of the report. This would be considered as part of the new Local Plan consultation, which would provide residents an opportunity to provide comments on the use of the site at that point.

RESOLVED:

1. That the Council take a surrender of the leasehold interest on the terms contained within the body of the Cabinet report.

10 AGENCY WORKERS CONTRACT 2017 (Agenda Item 10)

The Cabinet Member for Finance introduced the report, which proposed an award of a new contract for the supply of temporary agency workers, on the terms set out in the exempt report.

RESOLVED:

1. That the recommendations contained in the exempt report be approved.

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Committee: Cabinet

Date: 11 December 2017

Wards: Abbey

Subject: Reference from the Children and Young People Overview and Scrutiny Panel – Elim Church and Merton Hall

Lead officer: Annette Wiles, Scrutiny Officer, 0208 545 4035

Lead member: Councillor Dennis Pearce, Chair of the Children and Young People Overview and Scrutiny Panel

Recommendation:

That Cabinet takes account of comments made by the Children and Young People Overview and Scrutiny Panel (set out in paragraphs 2.2 below).

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To inform Cabinet of the recommendation resulting from the update on the development of Harris Wimbledon that took place at the Panel meeting held on 8 November 2017.

2 DETAILS

- 2.1. Members received an update report from officers on the Harris Academy Wimbledon including details of population projections/school rolls, site assembly issues, an update on the reference the Panel made in July 2017 and alternative options.
- 2.2. As a result of their discussions, members made the following recommendation:
- 2.2.1 The members of the Children and Young People Overview and Scrutiny Committee request Cabinet seek formal written reassurance from the Elim Church that under its management Merton Hall lettings will enable the venue to remain for the use of all the community and that these lettings will be fully compliant with equality legislation.

3 ALTERNATIVE OPTIONS

- 3.1. Cabinet is required under the terms of the constitution to receive, consider and respond to recommendations from Overview and Scrutiny.

4 CONSULTATION UNDERTAKEN OR PROPOSED.

- 4.1. None for the purposes of this report.

5 TIMETABLE

- 5.1. None for the purposes of this report.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None for the purposes of this report.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. None for the purposes of this report.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None for the purposes of this report.

9 CRIME AND DISORDER IMPLICATIONS

9.1. None for the purposes of this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None for the purposes of this report.

11 APPENDICES

11.1. None

12 BACKGROUND PAPERS

12.1. None

Committee: Cabinet

Date: 11 December 2017

Wards: All

Subject: Reference from the Overview and Scrutiny Commission – pre decision scrutiny of the Business Plan 2018-22

Lead officer: Julia Regan, Head of Democracy Services

Lead member: Councillor Peter Southgate, Chair of the Overview and Scrutiny Commission

Contact officer: Julia Regan; Julia.regan@merton.gov.uk; 020 8545 3864

Recommendations:

- A. That Cabinet, in taking decisions relating to the Business Plan 2018-22, takes into account the reference made by the Overview and Scrutiny Commission (set out in paragraph 2.3 below).
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To inform Cabinet of the recommendations and comments resulting from pre decision scrutiny of the Business Plan 2018-22 by the Overview and Scrutiny Commission and Overview and Scrutiny Panels at their meetings in November 2017.

2 DETAILS

- 2.1. The Overview and Scrutiny Commission and each of the Overview and Scrutiny Panels have examined the budget and business plan proposals relating to the service areas within their remit. There were no references from the Scrutiny Panels to the Overview and Scrutiny Commission relating to round one of the budget scrutiny process this year.
- 2.2. The Commission received a reference from its financial monitoring task group arising from its scrutiny of the six months financial monitoring report at its meeting on 14 November 2017.
- 2.3. The Commission discussed the reference from the task group and **RESOLVED** to make a reference to Cabinet asking Cabinet to be mindful of the financial monitoring task group's discussion when reviewing the draft Business Plan 2018-22. In particular, Cabinet is asked to note:
- a) the proposed use of £2.9million from the earmarked reserves to balance the budget;
 - b) that there is just £0.5million head room left on the General Fund; before it reaches the minimum prudent level set for 2017/18
 - c) that the predicted shortfall of savings to be carried forward from previous years will be £860,000 for 2018/19;
 - d) that some of the problems experienced in achieving savings are longstanding and persistent, including demographic pressures in Adult Social Care and the unfunded costs of supporting unaccompanied

asylum seeking children and those with no recourse to public funds; and intensifying price competition where council services compete with the private sector eg. building control

e) the vacancy rate and use of agency staff and number of unfilled vacancies, after allowing for brought forward savings

3 ALTERNATIVE OPTIONS

3.1. Cabinet is required under the terms of the constitution to receive, consider and respond to recommendations from Overview and Scrutiny.

4 CONSULTATION UNDERTAKEN OR PROPOSED.

4.1. The Constitution outlines the requirements for consulting scrutiny on the budget.

5 TIMETABLE

5.1. Round one of scrutiny of the 2018-22 Business Plan was undertaken as follows:-

- Children & Young People Overview & Scrutiny Panel: 8 November 2017
- Sustainable Communities Overview & Scrutiny Panel: 2 November 2017
- Healthier Communities & Older People Scrutiny Panel: 7 November 2017
- Overview and Scrutiny Commission: 15 November 2017

5.2. Comments and recommendations from round one will be reported to Cabinet on 11 December 2017.

5.3. Round two of scrutiny of the Business Plan is planned as follows:-

- Sustainable Communities Overview & Scrutiny Panel: 10 January 2018
- Children & Young People Overview & Scrutiny Panel: 17 January 2018
- Healthier Communities & Older People Scrutiny Panel: 11 January 2018
- Overview and Scrutiny Commission: 25 January 2018

5.4. The responses from round two will be presented to Cabinet on 19 February 2018. A meeting of Budget Council will then take place on 7 March 2018.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. These are detailed in the substantive reports elsewhere on this agenda.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. The process for developing the budget and business plan is set out in Part 4C of the Council's Constitution. The role of the Overview and Scrutiny Commission and panels with regard to the development of the budget and business plan is set out in Part 4E of the Constitution.

7.2. The legal and statutory implications relating to the budget and business plan are contained in the reports elsewhere on this agenda.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. It is a fundamental aim of the scrutiny process to ensure that there is full and equal access to the democratic process through public involvement and engagement.

9 CRIME AND DISORDER IMPLICATIONS

9.1. These were examined by the Commission and were taken into account in making their recommendations to Cabinet.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None for the purposes of this report.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- None

12 BACKGROUND PAPERS

12.1. None

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Committee: Cabinet

Date: 11th December 2017

Wards: All Wards

Subject: Home Care - Award of Contracts for the Provision of Home Care Services

Lead officer: Hannah Doody, Director of Community & Housing

Lead member: Cllr Tobin Byers, Cabinet Member for Adult Social Care & Health

Contact officer: Nick Robinson, Tendering Officer, Adult Social Care

Recommendations:

-
1. That Cabinet approves the award of contracts for the provision of Home Care Services (also known as 'Domiciliary Care Services') for Lots 1, 2 & 3 in respect of the single highest ranked, evaluated bid for each Lot shown in Appendix 1a.

Annual contract values by zone

West Zone (Lot 1)	@	£3.64 million
Central Zone (Lot 2)	@	£2.83 million
East Zone (Lot 3)	@	£2.83 million

Total **£9.30 million**

2. That Cabinet approves the award of contracts for the provision of Home Care Services for Lots 4 & 5 in respect of those highest ranked, evaluated bids listed in Appendix 1b. The annual cost of Home Care Services for Lots 4 & 5 are contained within the contract values shown under Recommendation 1. above.
 3. That Cabinet agrees contracts will commence on 01 February 2018 and be for a period of five years with the option to extend (exercisable at the Council's sole discretion) by two further increments of 12 months each. The maximum possible contract period will be no more than seven years.
 4. That for Lots 1, 2 & 3, Cabinet agrees to the use of existing providers for such a period of time as may be required to allow for the continued provision of Home Care Services ensuring:
 - a) a smooth transition from existing providers to new providers and
 - b) customer choice.
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The purpose of this report is to seek the approval of Cabinet to award contracts to providers as detailed in Appendices 1a and 1b who will provide Home Care Services to customers within the borough who are assessed as requiring such care and support.
- 1.2. Under the new contractual arrangements, the majority of Home Care service *care packages* (approximately 80%) will be delivered across three geographical zones, 'West', 'Central' and 'East' by the 'Prime' providers who

successfully bid for Lots 1, 2 & 3 respectively. A map of the three geographical zones, by ward can be found at Appendix 3.

Any care package which, legitimately, cannot be accepted by the relevant Prime provider will be offered to one of the 'Supplementary' providers who successfully bid for Lot 4. Supplementary providers are expected to operate across all three zones.

- 1.3. Provision has also been made for specialist Home Care services (e.g. for a customer with an acute loss of hearing and vision) which will be delivered, as appropriate, by one of the 'Specialist' providers who successfully bid for Lot 5. Instances will be limited to those cases where, in assessing a customer, a social worker or other professional concludes that the standard service (via Lots 1, 2, 3 or, 4) cannot meet the needs of the individual. Specialist providers are similarly expected to operate across all three zones.
- 1.4. There are several developmental aspects to the contract which requires investment in recruitment, training, technology and different ways of working; the benefits of which would not be fully realised over a shorter term contract. The Council intends to build a longer term partnership with the Provider which is based on trust and openness enabling the Provider to take on greater responsibility and allowing them to develop services to the benefit of Customers. The new contracts will operate for a period of five years, commencing on 01 February 2018 with the option to extend, (exercisable at the Council's sole discretion), by two further increments of 12 months each making for a potential contract period of up to 7 years.
- 1.5. As detailed below, the transfer of existing care packages to those providers which were successful in bidding for Lot 1, 2 and 3 will happen gradually over time, with the interests of service users paramount in any decision to transfer. This will affect all current providers: both those who were successful in bidding for Lot 4 and those which were not.

2 DETAILS

- 2.1. The contract originally let in April 2012 had 13 approved providers, although 2 never accepted any packages. Of the remaining 11, 3 have exited the market in the last 12 months citing unsustainable low Home Care rates. Following a number of mergers and acquisitions we are now left with 6 active contracted providers. Approximately 40% of current Home Care commitments relate to off contract spend due to the inability of the existing pool of contracted providers to meet demand.
- 2.2. The Council currently purchases approximately 603,200 care hours per annum of Home Care via *packages of care* based on the needs of customers as assessed by social workers and other qualified officers. This provision costs £9.3m per annum, with £1.5m being recouped through client contributions making an overall net annual cost to the Council of £7.8m.
- 2.3. Examples of Home Care include but are in no way limited to the following tasks:
 - washing and bathing; dressing and undressing; assistance with eating and drinking; assistance with getting in/out of bed

(including the use of a hoist if required) + other aspects of personal care;

- cleaning of rooms; vacuuming; changing bed linen/making beds; disposal of household rubbish; cleaning of crockery and utensils etc.; general tidying + other aspects of cleaning and general home care;

2.4. Adult Social Care Commissioners carried out a review of the current provision to inform the design of a new Home Care service.

2.5. Service Redesign

There are a number of developmental aspects to the proposed contract; the key elements being a shift from an output to an outcome based approach to commissioning home care. Below is a summary of key features (presented in two parts) for the proposed service:

Service aspects available from 'go-live'

- Divide the borough into 3 geographical zones. Providers expressed a preference for this approach during consultations. It is more attractive to providers as it offers greater certainty in terms of hours on offer and makes it more viable for their businesses.
- Operate the service on a prime provider model. This enables the Council to maintain control on who it purchase services from, that they have met stringent criteria and at an agreed price as opposed to the relative chaos of spot purchasing from the wider open market.
- Explore and deploy Payment by Results (PBR) mechanisms where appropriate and prudent to do so.
- Address peripheral issues impacting on service delivery e.g. parking restrictions in certain parts of the borough – Raynes Park, Wimbledon. Resolution agreed with Parking Services.
- Allow for incentives for providers to take up more work in areas where there have been challenges historically.
- Incentivise providers to take on new packages and retain them for as long as possible and is appropriate for them to do so. E.g. to facilitate hospital discharge and reduce DTOC days.
- Respond to 7-day working as and when the Better Care Fund (BCF) condition comes into effect to implement proposed government policy. Some of this is already happening.
- utilise electronic call monitoring system (CM2000) to track use of commissioned capacity in a way that is mutually beneficial to both parties.

Developmental aspects – to be implemented over the life of the contract

As was clearly set out in the tender documents:

- The Council and providers will actively seek to build a relationship with the Provider that is based on trust and openness and where this occurs will devolve greater responsibility to the Provider that will enable them to develop their service to the benefit of our Customers. By adopting an Outcomes Based Approach, we hope that the Provider will develop a service that is attractive to our customers.
- Gradually shift to becoming more outcomes-focussed as opposed to completing specific prescribed activities or tasks e.g. use of time bands, family/provider negotiation around tasks and appointment times.
- Develop the Home Care service to a point where providers are trusted to undertake reviews and some assessments. Providers will prepare support plans basing on Needs Assessment summary received from the Brokerage team and undertake some reviews, subject to agreement.
- Actively develop a strong and equal partnership whereby the authority and the providers work together at a strategic level to problem solve and continue to develop the Home care service.
- Influence and support improved recruitment, training and retention of carers by empowering the providers to recruit and train competent carers and agree with the customers call appointment slots. This will allow the provider to evenly schedule appointments with customers throughout the day to allow the carers to work for longer hours rather than just only at peak time which will effectively improve staff retention.
- Greater use of technology e.g. encouraging use of smart devices to record key information about each customer's wellbeing; share support plans with the Council online.
- Encourage providers to undertake the responsibility of re-enabling customers to improve outcomes and reduce care packages where possible by rewarding good performance.
- Align services where possible with NHS CLCH to improve interface with community health teams
- Explore co-location of co-ordinators and brokerage team – make provision for this to be explored in year 1 of contract
- Use of GPS tracking (for safety and better deployment of staff) – Providers are very receptive to this idea. In fact some providers are already using similar systems in other localities and are willing to share their experiences with commissioners going forward.

Pricing options

On the issue of pricing the following options were considered.

- I. **Competitive and open pricing:** Where the pricing is left to the competitive market to dictate. The lowest bid would score the maximum points under the price category. However the lowest price may not be financially sustainable or offer the best quality service.
- II. **Set pricing:** The initial set rates are determined by the Council within the Council's budget limits for year one, with contract clauses governing options for future uplifts. All bidders would be required to confirm that they are able to deliver the service at the set price and the bids would entirely be evaluated on the basis of quality with the added assurance of knowing that all bids will be affordable to the Council.
- III. **Defined range pricing:** The Council sets a lower and upper price limit with bidders required to submit tenders within that range.
- IV. **Block Contract –** An agreed rate for a predetermined number of hours which the Council would be committed to pay for regardless of whether they are fully utilised or not. It provides a greater degree of certainty of cost to the Council but can also be an inefficient way to procure, with the risk of over or under provision. With this option there is no incentive for the provider to perform.

The recommended and preferred option in respect of pricing was option II. i.e. Set pricing.

Quality Assurance and Monitoring

Formal Quality Assurance and monitoring will be undertaken. The Council will deploy a range of measures to facilitate the effective review of provider performance to achieve consistently good outcomes for customers and the Council. The measures will include but are not restricted to:

- Monthly meetings with prime providers
- A six-monthly forum with all providers
- Continued information sharing with the Care Quality Commission and Clinical Commissioning Group
- Spot checks and unannounced visits
- Monitoring of all Key Performance Indicators (KPIs) including complaints and compliments, number and reasons for safeguarding alerts, achievement of customer outcomes, response times, consistency of provision etc.
- The continued use of electronic call monitoring systems to check planned visits take place and last the required duration

The purpose of provider performance reviews is to encourage an open and regular dialogue between the Council and Home Care providers to ensure that specified service standards and outcomes are being met and to improve both the performance and quality of service provision.

2.6. The new service is designed to enable customers to live as independently as possible, for as long as possible, while living in their own homes (including sheltered housing schemes). It is the council's expectation that providers will deliver services that are flexible and which support and facilitate customers to meet the challenges of daily living, so enabling them to live as engaged and active citizens. In all cases, the actual delivery of services will derive from tasks identified by social workers etc. which will meet customers' needs and outcomes within personal *support plans*.

2.7. Shaping the Market & Zoning the New Service

The Council has 20 wards across the 5 centres/towns within the Borough of Merton. For the purposes of delivering this service, the commissioners have divided the 20 wards into 3 zones – West, Central and East.

In addition the Council has categorised Providers into five groups:

Lots 1 – 3 (Prime Providers) this will consist of three Prime Providers with each Prime Provider contracted to deliver services in one of the three zones i.e. West, Central or East.

Lot 4 (Supplementary Providers) will consist of a number of providers to augment the prime provision e.g. where there are capacity issues during peak periods. Supplementary Providers in this category are not restricted to operating in any specific zone(s) and will be allocated work across the borough.

Lot 5 (Specialist Providers) will consist of providers offering specialist services e.g. to deaf-blind Customers needing care. Specialist Providers are not restricted to operating in any specific zone(s) and will work across the borough. Specialist provision refers to instances where a Social Worker or other professional has assessed a Customer and determined that the standard service does not meet his/her requirements.

All Lots. There is no guaranteed number of hours offered to any Provider category. There is an expectation on Prime Providers to meet demand first. Their ability to deliver will be monitored and managed closely by the contracting team.

2.8. Mobilisation of the new contract will be phased as follows:

- All new packages will be offered to new providers.
- Existing packages will continue to be delivered by the incumbent provider(s) until there is a need to change carers for whatever reason. At this point the package will transfer to a new provider.
- A programme of gradual transfers from high cost spot purchased care will be undertaken. Attempts to bulk transfer clients was considered but deemed to be too great a risk. Restarts - Customers will be given an option to stay with their existing home care provider or switch to the new provider.

- It is worth noting that the majority of the proposed providers for Lots 1 to 4 are existing providers in Merton which will smooth the transition process. However, any of the existing providers not awarded a contract for the delivery of any Lot will remain on their current rate.
- Reviewing of CM2000 – providers will continue to use CM2000 as a monitoring tool in the first year of the contract to allow time for a review of the existing system and explore options.

2.9. Value of the Contracts

The value of contracts per annum for this service is based on rates which are described in detail at Appendix 4. Once the service is fully operational, it is estimated that the approximate annual value for each zone will be as follows:

Annual contract values

West Zone (Lot 1)	@	£3.64 million
Central Zone (Lot 2)	@	£2.83 million
East Zone (Lot 3)	@	£2.83 million
Total		£9.30 million

It was made clear to prospective providers that when submitting bids they were agreeing to provide services based on the rates shown in Appendix 4. They were also advised that bids received with prices different to those listed above would not be considered.

The West zone is larger geographically and financially as it is harder for providers to operate. Service users are further apart and there are fewer carers resident in the zone. Consultation with potential providers suggested that this zone required additional scale to be sustainable.

2.10. Description of the Tender Models

For Lots 1, 2 & 3, in accordance with the tender documents the selection model involved two stages:

- Stage 1 comprised of a Selection Questionnaire covering minimum standards and requirements i.e. exclusions, economic & financial standing and technical & professional ability.
- Stage 2 comprised of a series of 'method statement' questions covering five key category areas.

For Lots 4 & 5 the selection process was limited to a single stage, mirroring Stage 1 described immediately above but with additional questions about providers' technical and professional abilities (four additional questions in respect of Lot 4 and five in respect of Lot 5).

2.11. Description of the Tender Process

The services being provided under the contracts are Schedule 3 Services and given the value of the contracts exceeds the threshold of 750,000 euros the procurement process was carried out under the Light Touch Regime in accordance with EU Directive 2014/24/EU, The Public Contracts Regulations 2015 and the Council's Contract Standing Orders

The process was conducted via the London Tenders Portal, a web based e-Tendering system, by the Community & Housing Directorate's *Contracts and Procurements Team*. Support and advice was provided by the Council's Commercial and Legal Services as and when required.

The tender opportunity was advertised between 14 & 15 February 2017 through the London Tenders Portal, The Official Journal of the European Union (OJEU) and Contracts Finder (the UK's single publishing portal for all public sector procurement opportunities).

Prospective service providers were invited to tender their bids electronically for one or more of the Lots described in this report and were advised that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) (TUPE) might apply to the contracts.

One-hundred-and-eighty-two organisations expressed interest in the tender; of which fifty-eight went on to submit formal bids.

2.12. Tender Evaluations

All bidders were advised in the tender documents provided that the subsequent award of any contract would be in accordance with the evaluation criteria specified in the tender documents and based on the offer which constituted the 'most economically advantageous tender' ('MEAT') to the Council.

The Council's tender evaluation panel consisted of the following:

- The Interim Commissioning Lead Officer, Community & Housing (all Lots);
- The Commissioning Officer, Community & Housing (all Lots);
- Senior Brokerage Officer #1, Community & Housing (all Lots);
- Senior Brokerage Officer #2, Community & Housing (Lots 1, 2 & 3);
- Brokerage Officer, Community & Housing (Lots 4 & 5);
- Head of Corporate Safety Services (all Lots; Health & Safety matters only).

Lots 1, 2 & 3 First Stage

The compliant Selection Questionnaires of 10 providers were evaluated with all 10 considered to be of sufficient standard to proceed to the second stage.

Lots 1, 2 & 3 Second Stage

With two providers subsequently opting out from the competition, the method statement responses of the remaining 8 providers were evaluated and moderated in accordance with the models shown at appendices 5 & 6. It was made clear to providers that, subject to post contract award formalities, the highest scoring response for each Lot would succeed.

Successful and unsuccessful bidders for these Lots are described in Appendices 1 and 2 respectively.

Lots 4 & 5

Forty-four providers submitted compliant extended Selection Questionnaires for Lot 4 along with 18 providers bidding for Lot 5. These were evaluated and moderated in accordance with the tender documents and as shown at appendices 7 & 8. It was made clear to providers that, subject to post

contract award formalities, bids scoring 50% or more of the total available score would succeed.

All Lots

Successful and unsuccessful bidders for these Lots are described in Appendices 1a, 1b and 2 respectively. Subject to Cabinet's approval to award, the bidders will be notified by a correctly drafted and regulations compliant standstill letter. The notice will be the subject of a voluntary standstill procedure of 10 days in accordance with best practice.

3 ALTERNATIVE OPTIONS

3.1 The following options were considered:

Option 1 - Stay the same - we continue as we are with an increasingly limited pool of contracted providers, supplemented by a broad range of spot purchase providers.

Option 2 - Any Qualified Provider (AQP) model - With this model the council will screen and accept any provider at any time with the necessary qualifications and experience on to a list of selected providers to deliver home care. There will be no limits (within reason) on the number of providers on the list.

Option 3 - Geographical Prime Provider model - With this model, it was proposed that the borough be divided into three geographical zones with services delivered by a Prime Provider in each. To supplement this there will be a pool of 'supplementary' providers operating as back up. Prime Providers are offered 'first refusal' on the delivery of all packages in their zone to make the offer more attractive and viable.

Option 4 - Spot purchase - The service will be purchased on the open market on a pay as you go basis with no formal arrangements in place

Option 5 - Block contract - This would involve contracting exclusively with two to three providers of home care. This would ensure that they get sufficient volume of business for Merton to be able to make greater demands around quality and innovation. It would also enable a move towards outcome based commissioning, as providers would have sufficient turnover to bear the risk inherent in payment by results models.

Option 6 - Dynamic purchasing system (DPS framework) - The Dynamic Purchasing System (DPS) is a procedure available for contracts for works, services and goods commonly available on the market. As a procurement tool, it has some aspects that are similar to an electronic framework agreement, but where new suppliers can join at any time. However, it has its own specific set of requirements. It is to be run as a completely electronic process, and should be set up using the restricted procedure and some other conditions as set out in the Public Contracts Regulations 2015.

The preferred/adopted option was Option 3.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1 Market Engagement

The commissioning team actively engaged with a range of home care providers. This included round table as well as one to one conversations with 30 organisations, an online survey and four provider events held over two days in August 2016. This together with an online survey was advertised to all providers via the London Tenders Portal.

76 providers expressed interest in getting involved in our home care service consultation. Of these, 14 are already providing services to LB of Merton (6 framework and 8 spot purchase providers).

25 organisations were represented at the provider events.

31 organisations participated in the online survey.

A summary of the feedback received is shown below.

Overall providers:

- Were in support of outcome-based approach to commissioning home care;
- Wanted to see a focus on improvement of Customers' experience rather than savings;
- Were in support of Merton setting prices before re-commissioning the home care service;
- Advocated for provider direct involvement in assessment of customers;
- Wanted to see improved relationships among providers, customers and the Council (trust is critical to improving quality of services);
- Wanted changes to the way CM2000 call monitoring system is used. Their opinion was that CM2000 should be applied as an output monitoring tool and to process invoice payments;

Summary of feedback from online survey:

- 84% of respondents understood outcome-based commissioning;
- 68% supported the proposed outcomes-based model while 26% had reservations;
- 65% favoured four rather than two geographical areas;
- 58% had some difficulty recruiting staff;
- 55% supported a 'Merton fixed rate' (36% were opposed);
- 71% supported not transferring existing home care business to the new Providers immediately after contract award unless customers expressed an interest in doing so or there was a break in service.

Commissioners also took into account other advice and intelligence from both internal and external stakeholders e.g. safeguarding alerts, comments, complaints and compliments.

Consultation with internal stakeholders:

- Legal Services;
- Commercial Services;
- Brokerage Team (Adult Social Care)
- Social Work Team
- Safeguarding Team
- Performance & Improvement Team

5 TIMETABLE

Upon approval the Council will agree with the successful tenderers, an implementation plan to ensure that the new service commences on 1st February 2018.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The current cost of Home Care is £9.3m per annum
- 6.2. The cost of the new Home Care service will be based on the fixed rates described in Appendix 4.
- 6.3. Efficiencies
 These will be achieved by moving away from more expensive spot purchased care to a sustainable contracted provision. All contracted care will be managed through our electronic call monitoring system so that we are clear that people are getting the care that they need. It should be noted that 15 minute calls for personal care are no longer being commissioned, though they will be allowed for other purposes such as hydration checks etc..
- 6.4. Saving targets linked to the benefits are as follows:-
 2017/18 - £215k
 2018/19 - £301k

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The services provided under the contracts are Schedule 3 Services and accordingly are not subject to the full rigours of the Public Contracts Regulations 2015, but instead as the value exceeds the 750,000 euro threshold has been procured in accordance with the Light Touch regime as set out in EU Directive 2014/24/EU, The Public Contracts Regulations 2015 and the Council's Contract Standing Orders. Subject to approval to proceed and award the contracts the Council shall be running a ten day standstill period in accordance with best practice. Existing and prospective providers were advised that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) (TUPE) might apply to the contracts.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. The tender documentation submitted by tenderers were assessed against equality criteria developed to comply with current equality legislation. This was to ensure that contracts are awarded to organisations that have an equality policy and practices that can impact positively on the delivery of the service. The Contract Manager will have the responsibility of monitoring that the Contractor is implementing equalities, as part of the regular contract management procedure.
- 8.2. The Project Lead undertook an Equality Impact Assessment (initial screening) at the tender evaluation stage which showed that no Customer group with protected characteristics will be negatively impacted.
- 8.3. The Human Rights and Equality Act 2010 will be considered during the tender evaluation process.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. There are no specific implications affecting this tender.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. A risk log was maintained throughout the life of the tender process with any risks identified and logged, including levels of identifying levels of probability and action taken to reduce or eradicate the risk.
- 10.2. All organisations being awarded contracts have a health and safety policy that compliments the Council's corporate procedures for effective health and safety and risk management. The tender documentation submitted by all selected tenderers in respect have been assessed against a criteria developed by the Council's Safety and Emergency Planning Team

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix 1a – Highest Ranked Evaluated Bidders for Lots 1, 2 & 3
- Appendix 1b – Highest Ranked Evaluated Bidders for Lots 4 & 5
- Appendix 2 – List of Unsuccessful Providers (ranked according to Lot)
- Appendix 3 – Map of Geographical Zones for Home Care by Ward
- Appendix 4 – New Pricing Schedule for Home Care Services
- Appendix 5 – Tender Evaluation Model Lots 1, 2 & 3
- Appendix 6 – Evaluations: Scoring Methodology Lots 1, 2 & 3
- Appendix 7 – Tender Evaluation Model Lots 4 & 5
- Appendix 8 – Evaluations: Scoring Methodology Lots 4 & 5

12 BACKGROUND PAPERS

12.1. Contract Standing Orders

12.2. Procurement Strategy

Appendix 1a – Highest Ranked Evaluated Bidders for Lots 1, 2 & 3

Details withheld – commercially sensitive

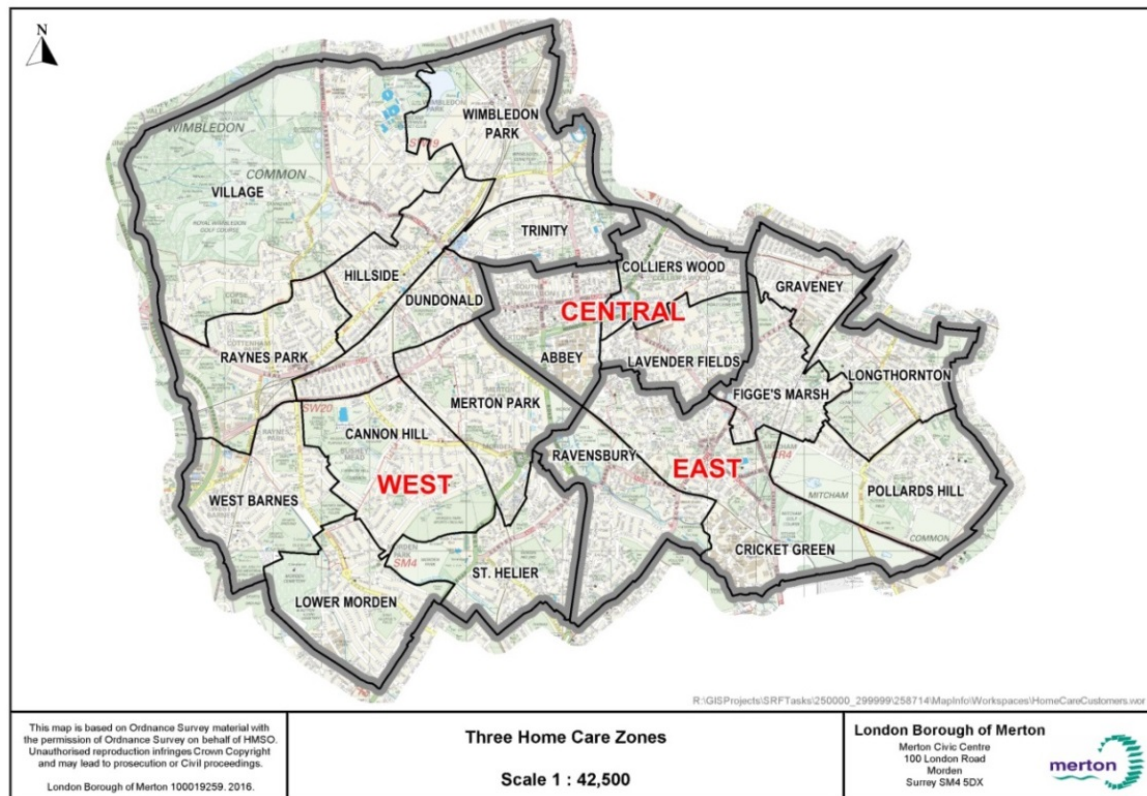
Appendix 1b – Highest Ranked Evaluated Bidders for Lots 4 & 5

Details withheld – commercially sensitive

Appendix 2 – List of Unsuccessful Providers (ranked according to Lot)

Details withheld – commercially sensitive

Appendix 3 – Map of Geographical Zones for Home Care by Ward



- Lot 1 = West Zone
- Lot 2 = Central Zone
- Lot 3 = East Zone
- Lot 4 = All Zones
- Lot 5 = All Zones

Appendix 4 – New Pricing Schedule for Home Care Services

2017/18 Rates

Item	Rate 17/18 (1 hour)	45min	30min	15min
Total cost per standard hour	15.18	12.12	9.12	6.09
Bank holiday rate	20.65	16.48	12.40	8.28

Bids received for prices different to those listed above will not be considered.

Below is a breakdown of how the hourly rates have been calculated and an explanation of the mechanism we intend to deploy to set rates over the lifetime of the contract.

Item	Proposed Rate 17/18 (1 hr)	45min	30min	15min	Comments
Contact time	7.63	5.7	3.8	1.9	Must be at least equal to the prevailing National Living Wage rate
Travel Time	1.27	1.27	1.27	1.27	Assumes 10 minutes travel time pro rata contact time rate
Travel Cost	1.5	1.5	1.5	1.5	Minimum bus fare applicable for travel in Merton
Staffing on costs	2.16	1.70	1.24	0.77	24.3% of contact and travel time to cover pensions, Training, sick pay and holiday pay, etc...
Business Running Cost	2.19	1.64	1.10	0.55	
Profit	0.42	0.32	0.21	0.11	
Total cost per std hour	15.18	12.12	9.12	6.09	
Bank holiday rate	20.65	16.48	12.40	8.28	

Future increases

For subsequent years the hourly rate will be adjusted to take account of the prevailing National Living Wage, if applicable. The travel time rate is linked to the National Living Wage and will also be adjusted. The travel cost element will reflect the standard cost of travel by bus within the London Borough of Merton. At the moment this is £1.50 but will be adjusted to match any change in fares accordingly.

Staffing 'on cost' is set at 24.3% of contact and travel time.

A change to the 'business running cost' and 'profit' element is not automatic. Any increases in this regard are at the sole discretion of the Council and will be subject to annual review.

2018/19 assumptions

The National Living Wage goes up to £7.83 from April 2018. Assuming that the Council agrees to apply a discretionary increase (for the business running cost and profit at 21% and 3% respectively) the hourly rate would be calculated as follows:

Item	Proposed Rate 18/19 (1 hr)	45min	30min	15min	Comments
Contact time	7.83	5.9	3.9	2.0	Must be at least equal to the prevailing National Living Wage rate
Travel Time	1.31	1.31	1.31	1.31	Assumes 10 minutes travel time pro rata contact time rate
Travel Cost	1.5	1.5	1.5	1.5	Minimum bus fare applicable for travel in Merton
Staffing on costs	2.22	1.74	1.27	0.79	24.3% of contact and travel time to cover pensions, Training, sick pay and holiday pay, etc...
Business Running Cost	2.38	1.87	1.36	0.85	
Profit	0.46	0.37	0.28	0.19	
Total cost per std hour	15.70	12.66	9.63	6.60	
Bank holiday rate	21.35	17.22	13.10	8.97	

Appendix 5 – Tender Evaluation Model Lots 1, 2 & 3

Tender Evaluation

The Council will evaluate the Bidder’s tender to deliver the service by assessing the bidders’ responses as detailed in the Tender Response Document.

OVERALL AWARD CRITERIA

The Council’s criteria for selection of the successful Bidder are based on the Quality Criteria listed below.

Each bid will be assessed and marks awarded solely for Quality (100% of the Total Marks)

The following scoring mechanism and weighting will apply in respect of each Bidder’s written submission. The scoring methodology is summarised below together with a statement setting out the basis upon which marks will be allocated:

Subject Area	Question	Available Marks	Sub Weighting	Overall Weighting	Total Score (%)
1. Governance	1.1		50	10%	
	1.2		50		
2. Knowledge	2.1		20	20%	
	2.2		80		
3. Service Delivery & Human Resources	3.1		60	30%	
	3.2		40		
4. Outcomes	4.1		30	20%	
	4.2		30		
	4.3		40		
5. Contract Compliance, Performance, Quality & Mobilisation Plan	5.1		30	20%	
	5.2		30		
	5.3		40		
TOTAL ASSESSMENT SCORE				100%	Max Score: = 100%

A rating of 0-4 will be used for evaluating each question in its Tender – the range of possible scores will be as set out in the Scoring Table below:

Appendix 6 – Evaluations: Scoring Methodology Lots 1, 2 & 3

Score		Score Justification
0	Unacceptable	Completely unsatisfactory/unacceptable response No response to the question or serious deficiencies in meeting the required standards.
1	Very Poor	Very Poor response The response fails to meet the required standards and contains serious shortcomings. The Evaluator is not confident that the bidder understands the contract requirements.
2	Poor	Poor response The response has shortcomings in meeting the required standards. There are some major concerns. The Evaluator has some reservations that the bidder understands the contract requirements.
3	Satisfactory	Satisfactory response The response is broadly compliant and meets the basic contract standards. Any concerns are only of a minor nature. The Evaluator is reasonably confident that the bidder understands the contract requirements.
4	Good	Good response The response is fully compliant and clearly indicates a full understanding of the contract. The required standards consistently deliver all the required contract standards. The Evaluator is confident that the bidder understands the contract requirements.

Scoring Methodology using Method Statement 2 as an Example:

Sub-Weighting

Based on a tenderer's mark of *3 out of 4* for question **2.1** and *2 out of 4* for question **2.2** their scores for method Statement 2 would be:

3 (score) divided by 4 (maximum score) multiplied by 20 = **15**

2 (score) divided by 4 (maximum score) multiply by 80 = **40**

The total sub-weighted score is 55.

continued on next page

Appendix 6 (continued) – Evaluations: Scoring Methodology Lots 1, 2 & 3

Total Score

The overall weighting for method statement 2 is 20%

Therefore, the total score will be $55 \times 20\% = 11\%$

The total score for each Method Statement will be added to determine the final score out of the maximum 100%.

MODERATION OF WRITTEN TENDER SUBMISSION SCORES

Evaluation team members will be required to individually score each Bidder's responses in accordance with the qualitative criteria.

Following completion of individual scoring, a moderation exercise will be undertaken in which each evaluator's score is compared with others. A consensus view will be sought on scores to be awarded. This will be overseen by an officer independent of the evaluation team who will record all scores on a master sheet.

Price Information

The Pricing Schedule shown as Schedule 3 of the Tender Response document must be noted for Lots 1, 2 & 3 and within Appendix 1 and 2 of the SQ for Lots 4 & 5. Failure to complete the Form of Tender, which *inter alia* confirms that the bidder accepts the aforementioned *pricing schedule*, will result in the tender being rejected.

Appendix 7 – Tender Evaluation Model Lots 4 & 5

The table below set out the available marks and weighted marks for each question from 6.2 to 6.10 (note question 6.3 is not scored).

Lot 4

Question No.	Subject Area	Available Marks	Weighted Marks
6.2	Previous Experience	0 to 4	15.0%
6.4	Safeguarding	0 to 4	15.0%
6.5	Complaints	0 to 4	10.0%
6.6	Strengths	0 to 4	10.0%
6.7	Service Delivery	0 to 4	12.5%
6.8	Equality	0 to 4	12.5%
6.9	Staffing	0 to 4	12.5%
6.10	Health & Safety	0 to 4	12.5%
Total		32	100%

The table below set out the available marks and weighted marks for each question from 6.2 to 6.11 (note question 6.3 is not scored).

Lot 5

Question No.	Subject Area	Available Marks	Weighted Marks
6.2	Previous Experience	0 to 4	13.0%
6.4	Safeguarding	0 to 4	13.0%
6.5	Complaints	0 to 4	9.0%
6.6	Strengths	0 to 4	9.0%
6.7	Service Delivery	0 to 4	11.5%
6.8	Equality	0 to 4	11.5%
6.9	Staffing	0 to 4	11.5%
6.10	Health & Safety	0 to 4	11.5%
6.11	Specialisms	0 to 4	10.0%
Total		36	100%

The formula used to calculate the weighted scores for each of the sub-criteria is the score given to each sub criteria multiplied by the weighting factor shown for that sub criteria i.e.:

Question Weighted Score (%) = (Bidder's score / 4) x Weighted Marks for that Question.

Appendix 8 – Evaluations: Scoring Methodology Lots 4 & 5

Score		Score Justification
0	Unacceptable	<p>Completely unsatisfactory/unacceptable response</p> <p>No response to the question or serious deficiencies in meeting the required standards.</p>
1	Very Poor	<p>Very Poor response</p> <p>The response fails to meet the required standards and contains serious shortcomings. The Evaluator is not confident that the bidder understands the contract requirements.</p>
2	Poor	<p>Poor response</p> <p>The response has shortcomings in meeting the required standards. There are some major concerns. The Evaluator has some reservations that the bidder understands the contract requirements.</p>
3	Satisfactory	<p>Satisfactory response</p> <p>The response is broadly compliant and meets the basic contract standards. Any concerns are only of a minor nature. The Evaluator is reasonably confident that the bidder understands the contract requirements.</p>
4	Good	<p>Good response</p> <p>The response is fully compliant and clearly indicates a full understanding of the contract. The required standards consistently deliver all the required contract standards. The Evaluator is confident that the bidder understands the contract requirements.</p>

Exempt or confidential information

The following paragraph of [Part 4b Section 10 of the constitution](#) applies in respect of information redacted in this report and it is therefore exempt from publication: Information relating to the financial or business affairs of any particular person (including the Authority holding that information).

Members and officers are advised not to disclose the contents of the redacted information. The information is contained in the exempt appendix.

Committee: Cabinet

Date: 11 December 2017

Agenda item:

Wards: Merton Hall is located in Abbey ward

Subject: Harris Academy Wimbledon – Contract award decision for Merton Hall construction works

Lead officers: Yvette Stanley – Director of Children, Schools and Families
Chris Lee – Director of Environment and Regeneration

Lead members: Cllr Caroline Cooper-Marbiah – Cabinet member for Education
Cllr Mark Allison – Deputy Leader and Cabinet Member for Finance
Cllr Martin Whelton - Cabinet Member for Regeneration, Environment and Housing

Contact officer: Tom Procter – Head of Contracts and School Organisation

Recommendations:

- A For Cabinet to consider the benefits and risks identified in this paper with regard to implementing the construction contract to enable the works to Merton Hall and therefore the delivery of a permanent site for the new Harris Academy Wimbledon school. This includes the application for the statutory listing of Merton Hall by the Secretary of State for Digital, Culture, Media and Sport, following an assessment by Historic England, the nomination to list Merton Hall as an Asset of Community Value (ACV), and an application to the Planning Court for a judicial review of the decision to grant planning permission.
- B Agree to enter into a construction contract with [REDACTED] for works to Merton Hall agreed in the draft contra [REDACTED] contract value of [REDACTED], but only subject to the following conditions:
- (i) That the Council has entered into a conditional contract with the Elim Trust Corporation as trustee for Elim FourSquare Gospel Alliance (Elim Church) that will bind Elim Church to transfer the freehold of their land at High Path to the

Council upon completion of the specified construction works and for the Council to transfer the freehold of Merton Hall to Elim Church

ii) The Secretary of State for Digital, Culture, Media and Sport (DCMS) determines to decline the application made to add Merton Hall to the list of buildings of special architectural or historic interest maintained by the DCMS (The National Heritage List for England), whether or not any subsequent request is made for the DCMS to review that decision

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The purpose of this report is for Cabinet to award a contract for works to Merton Hall following a competitive tender process. The paper outlines the contract process and considerations for a major construction contract at Merton Hall, consistent with the agreement of Cabinet on 4 July 2016 including the budget agreed for the works.
- 1.2 The Merton Hall scheme is one component to enable a clear site at High Path for the Education and Skills Funding Agency (ESFA) to build Harris Academy Wimbledon school. The scheme enables Elim Church to vacate the site and it is currently the main risk to the delivery of the new school project.
- 1.3 The recent school admissions application information confirms that there is a clear and urgent need for a new secondary school to open in September 2018. The temporary site at Whatley Avenue is only suitable for two year groups so the permanent school must be built by September 2020. If a clear site at High Path is not provided by early 2019 for the permanent school construction to commence there will be significant financial consequences for the Council. Without significant extra cost this can only be delivered by the commencement of works at Merton Hall in January or early February 2018 for completion in early 2019.
- 1.4 However, Cabinet also needs to take into consideration that commencing works at Merton Hall is now complicated by challenges on three aspects outlined below:
 - An application has been submitted to Historic England for National Heritage listed building status of Merton Hall. Historic England is currently considering the application with a decision by DCMS due in mid-January 2018.
 - A nomination has been submitted to the Council to list Merton Hall as an Asset of Community Value (ACV). The nominator has been advised that the Council did not have sufficient information to determine whether to list Merton Hall and has therefore been invited to submit further information by 15th December 2017.
 - An application has been filed at the Planning Court seeking permission for a judicial review of the Council's decision to grant planning permission for the certain development works to Merton Hall.
- 1.5 The contract award to a single contractor has followed the required processes to enable officers to recommend the award to the contractor with the lowest priced compliant tender. However, the implementation of these works needs to consider the above three matters. The full details and background is provided in the main report, but in summary the advice of officers is as follows

- *Application to add Merton Hall to the National Heritage List for England (the List)* – the DCMS is due determine the application in mid-January 2018 and the Council should wait for this decision before seeking to implement the construction works. If the DCMS decides that the building be added to the List a re-appraisal will be required.
 - *Asset of Community Value (ACV) listing* – for the reasons detailed in the report, this does not need to be a reason to delay implementation of the construction works.
 - *Judicial Review of the Planning Application Decision* – By mid-January, and so by the time of the DCMS's decision on National Heritage listing, the Council should know whether the Planning Court has granted permission for the application for the judicial review to proceed on the papers
- 1.6 The financial implications section of the report confirms that the construction cost is within the budget agreed by Cabinet in July 2016, and that the total net liability to the council for the new school scheme including costs associated with Elim Church is £8.75 million including all fees and contingencies. Therefore, if the council had not negotiated for the new school to be part of the Free School programme it would have cost the council approximately £35 million more. If the council had delivered the extra places at existing schools it would have cost the council approximately £15 million more.
- 1.7 The financial implications section of the report also confirms the view of the Director of Environment and Regeneration from the Cabinet decision on 4 July 2016 that the land swap of Merton Hall and Elim Church land with the construction project at Merton Hall represents best value for the Council.

2 DETAILS

The need for a new school by September 2018

- 2.1. The school improvement work carried out by the Council in recent years has been significant. All of the state funded secondary schools in Merton are now rated 'good' or 'outstanding' and 2017 provisional Progress 8 results puts the Borough's schools as the best performing schools in the country¹.
- 2.2. A new school with high standards would add to the Council's positive journey in being a good place for families to live and to receive secondary education. The essential need for a new secondary school to open by September 2018 has been identified for some time.
- 2.3. Following previous increases in demand, six of our eight schools are now substantially full in year 7, with two schools (to the east of Mitcham town centre, and to the west close to the RB Kingston border) making up most of the current 156 surplus places in year 7 (9%). It is recommended that at least a 5% surplus is allowed.

¹ Progress 8 scores, published by the Department for Education, show how much progress pupils make between the end of Key Stage 2 and the end of Key Stage 4 compared to other teenagers across England who achieved similar results at the end of Key Stage 2

- 2.4. The Council has been aware for some time that there is a particular issue for September 2018 in that there is a substantial growth of pupils in the current year 6 entering secondary school in 2018/19 that will be sustained for a number of years.
- 2.5. The admissions applications closing date for September 2018 secondary school entry was on 31 October 2017. This shows that the Council's requirement to provide additional year 7 secondary school places for September 2018 is certain and in addition to the predicted extra children, there is proportionally more preferences for LB Merton schools, so the Council will not be able to place the same reliance on out borough schools:
 - The Council has received 268 additional resident applications compared to last year; 209 of these residents have stated a LB Merton school as a first preference.
 - LB Merton schools have received 255 additional first preference applications for September 2018 compared to last year (i.e. including applications from out-borough residents)
- 2.6. There will therefore be serious consequences for the Council in providing sufficient places if Harris Academy Wimbledon does not open in September 2018 as advertised. The Council may also need to provide some additional places in addition to the new school on order to meet its sufficiency duty, which would need to be confirmed between school admissions offer day on 1 March 2018 and the start of term in September 2018.

Background to secondary school site issues.

- 2.7. On 4 July 2016 Cabinet authorised the Director of Environment and Regeneration to complete the freehold purchase of land for the provision of a new Harris Academy Wimbledon secondary school. This included land at High Path owned by Elim Church to transfer in exchange the freehold of Merton Hall and to adapt and re-build the majority of the Merton Hall building for use by Elim Church to a maximum cost of [REDACTED]
- 2.8. The secondary school is scheduled to open in September 2018 at a temporary site in the former Adult Education building, Whatley Avenue SW20. The site only has sufficient space for two year-groups of pupils so it is necessary for the permanent site at High Path to be ready for September 2020. With 18-20 months of construction time to build the school, the High Path site needs to be clear in early 2019 to enable completion of the school on time and avoid the complexities of a third year in temporary classrooms; otherwise the opening of the school is likely to be deferred.
- 2.9. The building works for Elim Church at Merton Hall are scheduled to take 12 months. To meet the above timescale the construction works therefore need to commence in January or early February 2018.
- 2.10. The Council granted planning permission for the construction works on 27 September 2017 and, subject to complying with the pre-commencement planning conditions and the award of the contract, works would normally be implemented. However, there are some complications outlined below

The construction works

- 2.11. Officers worked in partnership with Elim Church representatives to provide a construction scheme that met their needs within the maximum cost agreed by Cabinet in July 2016. An original scheme was refused by Planning Applications Committee in April 2017 so the scheme design was moderated and subsequently agreed by Planning Applications Committee on 21 September 2017.
- 2.12. The scheme maintains the front section of the Merton Hall building, with some enhancements to the original features. However, the rear hall section is demolished to provide a new fit for purpose hall for Elim Church that meets their size and acoustic requirements. There is a glass side extension set back slightly from the original building.
- 2.13. Merton's Design Review Panel gave the Council's proposed design the highest possible 'Green' rating with the replacement of the old hall section justified. Their minutes stated "The Panel were very impressed with the progress and evolution of the design.... It was felt that the new addition had got to the point where it was now enhancing, improving and lightening up the existing building, the modern extension complementing the original."

Application to add Merton Hall to the National Heritage List for England

- 2.14. In September 2017 a member of the public submitted an application to Historic England to add Merton Hall to the National Heritage List for England (the List), as being a building of special architectural or historic interest under section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The application is determined by the Secretary of State for DCMS. In the event the building is added to the List then the planning permission could not be implemented without a further application and approval for listed building consent given its enhanced protection.
- 2.15. While the Council could lawfully commence the works before the listing decision expected in January 2018, officers do not consider it appropriate to do so whilst the matter is under consideration. It is therefore proposed that the contract order is placed after the Secretary of State's decision, providing that decision is not to add the building to the List. There is an appeal process for the applicant should the building not be listed but this could take many more months and, in view of the timescale, it is not suggested the Council waits for this due to the impact on sufficiency of secondary school places.
- 2.16. If the Secretary of State decides to list the building then there would be a minimum 12-week delay whilst an application for listed building consent is determined, depending on the detail of the listing. A revision to the design would add to this timescale. Even a 12- week delay would mean that a clear site at High Path could not be provided to the required timescale with the implications outlined in this report and a re-appraisal will be required.

Contract with Elim Church and application for Asset of Community Value.

- 2.17. The Council has agreed a form of draft contract with Elim Church to enable the land swap to take place. In light of the application to add Merton Hall to the List, the contract will now be conditional on Merton Hall not being added to the List and the construction works being completed in accordance with the contract.

- 2.18. To ensure that the Council has certainty that it will get the benefit from the investment in undertaking the construction works, it will be necessary for conditional contracts to be exchanged prior to the construction works commencing. This will ensure that Elim Church is under a legal obligation to complete the land swap upon completion of the construction works in accordance with the contract. The intention is for contracts to be exchanged as soon as practical.
- 2.19. An application for Merton Hall to be listed as an Asset of Community Value was submitted by a group calling itself 'Friends of Merton Hall' (the Applicant) in September 2017, but the Applicant has been advised that the Council did not have sufficient information to determine whether to list Merton Hall. The Applicant has therefore been invited to submit further information by 15 December 2017.
- 2.20. Should Merton Hall be listed as an ACV, any subsequent decision of the Council (and associated notice) to dispose of the building triggers a six-week interim period for local groups to declare an interest in buying the property. A further six-month moratorium is triggered if a group expresses any such interest. However, the ACV does not compel the owner to sell to a community group and the Council is required to receive "best consideration" in accordance with section 123 of the Local Government Act 1972.
- 2.21. The ACV listing does not place any restrictions on the owner to carry out works to the building. Counsel's advice has confirmed that the Council would therefore be able to lawfully implement site works at Merton Hall while undertaking the ACV process in parallel.
- 2.22. However, Cabinet needs to be clear that there are good reasons for committing to the construction works when the ACV listing is in place, which compels the Council to give consideration to applications from community groups to purchase the building in accordance with the "best consideration" requirements of section 123 of the Local Government Act 1972.
- 2.23. In this instance, as outlined in this report, there is an urgent and compelling need to provide a clear site to enable works to build a secondary school in a tight timescale. The implications of not doing it is that children may be without a statutory school place or doing so through alternative means for September 2018 is estimated to cost the Council in the region of £1 million in temporary buildings. Prior to the ACV listing the Council has committed extensive resources to deliver the clear site at High Path for the secondary school, and the Elim Church site is the remaining portion of land required to deliver it.
- 2.24. It is theoretically possible for a community group to offer a price for the facility that would meet "better consideration" than the proposal with Elim Church, but given the wider need for the secondary school scheme, it is difficult to see how this would occur without a major change of circumstances. The investment in the facility will also provide an improved asset.
- 2.25. For the above reasons it is recommended that, the Council should commit the construction contract to provide an extended Merton Hall facility despite the likelihood of the building being listed as an ACV before the building works contract is implemented.

Judicial review of the Decision to grant Planning Permission

- 2.26. On 7 November 2017 a claim was filed in the Planning Court for the judicial review (JR) of the Council's decision to grant planning permission for development works at Merton Hall. The Claim has been made on the following grounds:
- "The Council failed to have proper regard to the fact that an application had been made to Historic England to add Merton Hall to the statutory list" (Ground 1); and
 - "The Council failed to give reasons for not deferring determination of the planning application pending determination of the Listing Application, as required by the principle of consistency in administrative decision making" Ground 2.
- 2.27. The JR claim was deemed served on the Council on 17 November; the claimant having rejected the Council's response served in accordance with the Pre-Action Protocol for Judicial Review, in which it refuted the grounds of the proposed claim. The Council intends to contest the Claim and will file an Acknowledgement of Service and Summary Grounds of Resistance (AoS and SGR) by the 8 December deadline.
- 2.28. Before a claim for JR can proceed the Court must determine whether to grant permission and if so, subject to conditions or not. The Court initially determines this on the papers. If permission is refused, the claimant can apply for a reconsideration at an oral hearing. The Planning Court's performance targets require the Court to determine whether to grant permission on the papers within three weeks of the date by which the Rules require the AoS and SGR to be filed (8 December). If permission is refused and a renewed application is made the Court aims to hear such applications within one month of receipt of request for renewal, which must be made within 7 days of refusal.
- 2.29. In the event permission is granted on the papers, or at a renewed application hearing, the Rules require the Defendant (the Council in this instance) to file detailed grounds of resistance within 35 days of service of the order granting permission, unless the court orders otherwise. The Court's target date for the substantive hearing of the JR is within ten weeks of the expiry of the 35 day period. If permission is granted and the JR proceeds to a hearing this is likely to extend the completion date of the Merton Hall works beyond the February 2019 deadline, irrespective of the outcome.

Procurement process

- 2.30. With regard to the procurement strategy, experience from recent tenders suggested that medium sized management contractors are currently providing competitive prices for this value of work. Therefore, in accordance with treaty principles, and in order to ensure good competition, it was decided that a procurement process that was initially accessible to all firms for selection would provide the best value for money.
- 2.31. The works were therefore procured in compliance with Contract Standard orders and the Public Contract Regulations 2015 (sub-OJEU). The process was

undertaken through the ProContract London tenders portal E-tendering system to an advertised estimated construction cost of £3 million.

2.32. The selection stage enabled five suitably experienced construction companies to be shortlisted on the basis of quality through submissions of a Selection Questionnaire, and then the selected contractors were invited to tender on the basis of providing a compliant tender to price.

2.33. The five bidders invited to tender were required to provide a full priced submission based on the Council's tender documents and to provide a formal price offer capable of acceptance by the Council. The lowest priced compliant tender was therefore to be appointed.

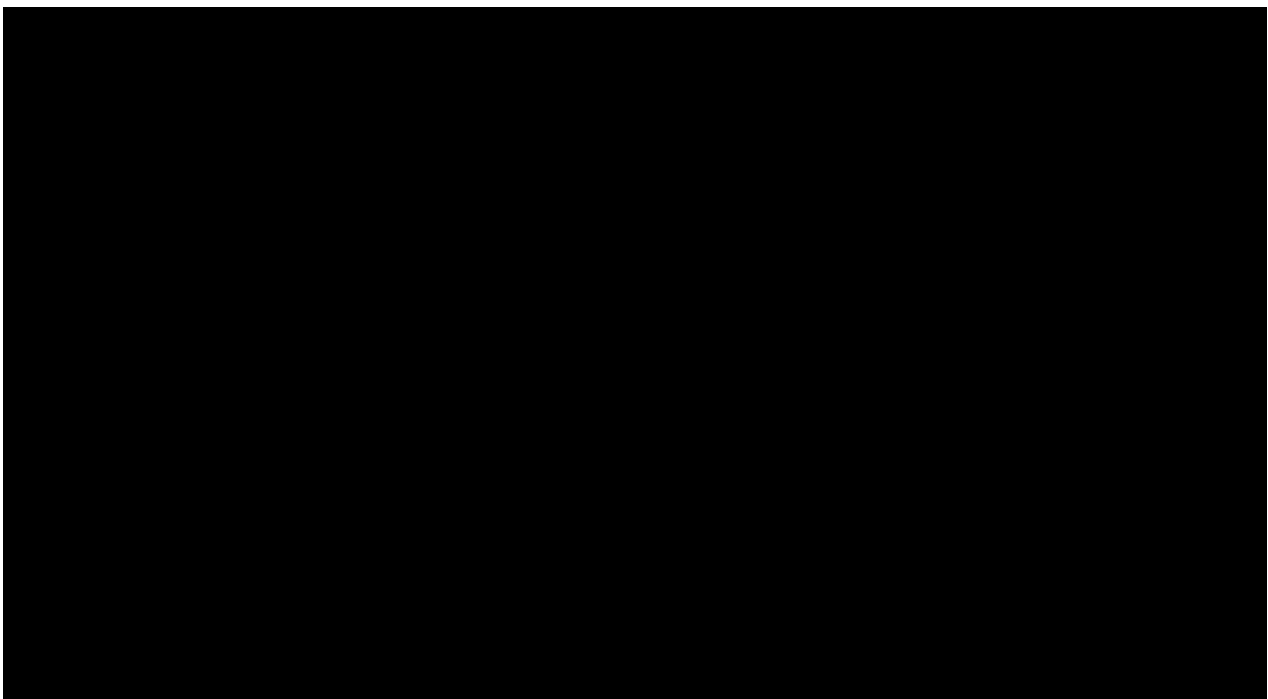
2.34. The form of contract for the Works will be the JCT Standard Building Contract without Quantities, 2016 Edition ("the Contract")

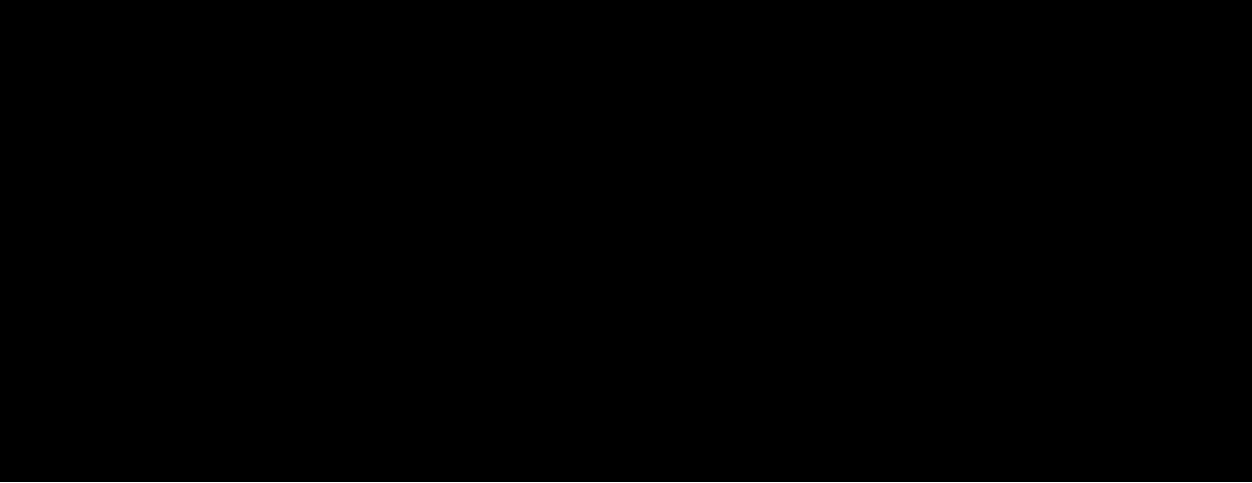
2.35. The tender documents were issued to five contractors for return on 2 November 2017.

2.36. The companies and their formal offer prices are summarised in the table below:

Company Name	Tender Figure
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

2.37. The project manager and quantity surveyor analysed the tenders. A summary of his tender report is as follows





2.44. It is therefore recommended that the Council agrees to enter into a contract with [REDACTED] for the sum of [REDACTED]. The implementation of this decision is subject to the conditions outlined elsewhere in this report.

2.45. It is proposed to run a voluntary standstill prior to the contract being formally awarded.

3 ALTERNATIVE OPTIONS

Alternative sites to High Path for a new school

- 3.1. In July 2016 the EFSA and Cabinet agreed that High Path was the only viable option for the new school out of the short-listed sites. The full details of the site search and the conclusion for High Path being the preferred site is outlined in the 4 July 2016 report.
- 3.2. Having reviewed again the options identified in the Capita report and the advice to Cabinet in July 2016, officers can confirm that none of the alternative sites shortlisted in the original report presents a viable alternative site for the school.
- 3.3. Officers have also considered whether the Virgin Active site at Battle Close could provide a site for a new secondary school. However, a spatial study confirms that due to adjacent housing only a low rise building could be provided at this site, and so the site is not large enough.

Alternative site for Elim Church

- 3.4. For July 2016 Cabinet officers identified Merton Hall as the most practical solution to enable Elim to move for their present site. While there has been some opposition to this solution, 17 months later this remains the case, and there is even less time to identify any alternative solutions. Any alternative solutions would take too much time to deliver, if it could be delivered at all, and would cost the Council considerably more money. Merton Hall was chosen as the most appropriate facility since:
 - It is a relatively under-used asset for LB Merton to maintain; all 12 of the regular hirers (only 5 of which used the main hall) could be accommodated elsewhere, and the facility is now closed.
 - With the capital investment by the Council it is an appropriate size for Elim to enable them to vacate their present site.

- The restrictive planning permission potential of the Merton Hall site is such that the Council is able to demonstrate the value for money of an effective land swap with Elim's existing site and the payment of construction costs to provide a suitable replacement building.
- A further alternative option that has previously been considered is that the Council exercise its CPO (Compulsory Purchase Order) powers to acquire the site compulsorily. The council would be required to pay the market price for the site plus statutory compensation. However, the use of CPO powers is to be used only very sparingly and is intended as a last resort after all other options have failed. The process is long and can result in a public enquiry, which would delay the process possibly taking up to 24 months to see the CPO through. Consideration needs to be given on when and whether the council would want to go down this route as it is likely to be seen as a hostile act by Elim and the hope of negotiating an early settlement may be lost.

Deferring Harris Wimbledon opening by a year, or deferring opening of the school indefinitely

- 3.5. The next alternative is that the school is either deferred by a year or indefinitely. However, the need for school places is clear - the Council would need to find at least four forms of entry per year for at least six years to meet sufficient provision. The implications of deferring the school are as follows:

Defer opening for a year

- 3.6. If additional places are to be provided in the Wimbledon area, officers would need to negotiate the temporary classroom provision for 2 extra classes each at existing Wimbledon schools to replace the Harris Wimbledon school places. Negotiation would be very difficult as these schools have previously stated they do not wish to permanently expand. Assuming that the schools can be persuaded, the estimated cost is in the region of £1 million.

Defer opening indefinitely

- 3.7. In this instance, the Council would need to provide the expansion for all five year groups of the secondary school. If the "bulge" lasts 6 years, then the schools would need to have some of the accommodation for 11 years until it feeds through the school and for much longer if the retention rate from primary to secondary school reverts towards previous levels. Therefore, it would be very difficult to avoid a solution that is not permanent accommodation, with an approximate cost of approaching £20 million to provide 120 extra places per year. The new school will provide 180 places per year so if demand is towards the higher range, as suggested by the recent admissions applications, then the cost to the Council would be in excess of £20 million. It should be recognised that the DfE would not meet these additional costs as it would not be part of the Free School programme.

Procurement options

- 3.8. As outlined in section two, a review of procurement options concluded that best value for money could be achieved through a restricted competitive tender rather than accessing a compliant framework agreement.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1 The Council publicised its plans for the school with land implications in autumn 2016 and a public meeting was held on 21 November 2016. The scheme at Merton Hall required a planning application, which included a representation period. This included a high number of objections to the scheme. A petition has so far raised over 3,500 signatures asking LB Merton: (1) To lead the way in respecting our dwindling heritage and planning law. (2) To shelve its plans for unnecessary demolition of a solid and fit-for-purpose building steeped in history and public legacy, and (3) To find an alternative site for Elim Church or issue it with a compulsory purchase order (CPO).
- 4.2 The Harris Federation ran a 6-weeks consultation on the establishment of the Academy and the Admissions arrangements in February/March 2017. 448 questionnaires were returned and 425 (94.9%) supported the proposal that the school should open.

5 TIMETABLE

- 5.1. The ESFA is responsible for deciding the opening date of the school. They have strongly suggested that the opening will be deferred from September 2018 if a confirmed timescale is not available by the end of January 2018 that provides a clear site at High Path for the permanent school in early 2019, enabling construction works to commence in early 2019 and complete for September 2020. The recommendation to provisionally award the contract in the anticipation that it can be implemented in January 2018 is therefore important to avoid this deferral and the costs outlined in this report.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

The EFSA is meeting the full cost of adapting Whatley Avenue for a temporary school and to build the new school at High Path (circa £25-30 million). The Council's costs are for site purchases and construction projects to enable a clear site at High Path. The EFSA has also agreed to make a payment to the Council of £5.85 million in return for the 125 year lease. The Council's capital programme currently provides the following funding for the Council's contribution to the new school. This includes all associated costs and fees to provide a clear site, and project contingencies.

	2016/17	2017/18	2018/19	2019/20	Total
Expenditure	6,558,601	1,267,020	5,474,230	1,300,000	14,599,851
Capital grant agreed by the DfE *					(5,850,000)

*Subject to completing the lease - Draft lease confirms 75%: £4,387,500 to be paid on exchange of conditional contracts and 25%: £1,462,500 to be paid on completion of the lease i.e. vacant possession.

- 6.1. The contract price is within the estimated budget for this component of the scheme and the overall budget authorised by Cabinet on 4 July 2016.
- 6.2. If the new build school is deferred to September 2019 it is envisaged the Council would need to provide at least four forms of entry in temporary classrooms at existing schools, which would need to remain at the schools for at least five years. The cost would be in the region of £1 million and it would depend on how these items were sourced on whether they were classified as capital or revenue.
- 6.3. There will be a DSG revenue cost implication as the Council would have to provide schools with “bulge” class funding for these classes at a cost of £80k per class. This will be met from the DSG growth fund

Value for money

- 6.4. The construction cost of a 1,050 place secondary school is at least £25-30 million and, with land costs in London, it is not untypical for the total cost of a new secondary school to be above £40 million. The construction cost of the Harris Wimbledon school is entirely the responsibility of the ESFA but on the basis of it being £25-30 million the total cost to the public sector of this scheme is £40-45 million.
- 6.5. Providing places through existing schools is generally less expensive and depends on the existing infrastructure in the school. The ESFA expectation is that secondary school expansion can be delivered for £20,920 per place, so £21.97 million for a 1,050 place school, but many councils struggle to deliver to this rate and have to supplement such expansions from their local resources. In Merton’s case the non-faith schools in Wimbledon are PFI schools and have already expanded significantly with the associated strain on infrastructure. The cost of these additional 1,050 places could therefore have been around £24 million.
- 6.6. When Free Schools provide Basic Need places the ESFA expects a financial contribution from the Local Authority and would expect the Local Authority to donate its land. However, the council negotiated a contribution of £5.85 million from the ESFA, therefore enabling the net liability to be a maximum £8.75 million
- 6.7. Therefore, if the council had not negotiated for the new school to be part of the Free School programme it would have cost the council approximately £35 million more. If the council had delivered the extra places at existing schools it would have cost the council approximately £15 million more.
- 6.8. The Elim Church site is the remaining portion to be finalised in the much larger site compilation for the new school, and all costs to the council are within the figures outlined above. The ‘land swap’ of Merton Hall and Elim Church land and the construction project meets best consideration of value for money for the Council as the High Path site has the potential to become residential development with its associated land values, while there is no reasonable prospect of Merton Hall being brought out of community use and into commercial or residential use. With the assistance of external valuation advice, the Director

of Environment and Regeneration therefore concluded in July 2016, and is still of the opinion, that this agreement represents best value for the Council.

Property

- 6.9. The property implications are in the main body of the report and were included in the report to Cabinet on 4 July 2016.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The legal and statutory implications arising from the applications received to add Merton Hall to the National Heritage List for England, to list is as an ACV and other matters are contained in Counsel's advice, which has been made available to Cabinet members.
- 7.2. With regard to the ACV the Council must comply with the moratorium provisions but is not obliged to accept any bid made by a local community group or to enter into negotiations with such group and is entitled to simply allow the 6-month moratorium period to expire. The Council will however still be bound by its duty to obtain best consideration to comply with Section 123 of the Local Government Act 1972.
- 7.3. The issue of timing is vital in relation to completion of the works and the land swap with Elim Church to ensure that all can be completed before the 12 month protection period expires. This timing is made even more vital to ensure the delivery of the school project at High Path.
- 7.4. As to the works to be undertaken to Merton Hall, the ACV restrictions do not cut down on the existing planning permission. Accordingly, Counsel is of the view that the works authorised by the planning permission can be carried out in accordance with that permission irrespective of any ACV listing.
- 7.5. This is a below OJEU threshold procurement and accordingly is not subject to the full rigours of the public contract regulations, but has been procured in accordance with the Treaty principles of transparency, equal treatment and non-discrimination and in accordance with the tender documents issued to all bidders.
- 7.6. The tender documents for the construction contract stipulated that the Council reserved the right for the Council not to award the contract so there is no legal issue with withdrawing from the procurement in the event that the conditions are not met regarding the listed building application. The contract is below threshold and provided it has been procured in accordance with the treaty principles and conducted in the manner set out in the tender documents the risk of any successful challenge is unlikely.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. An Equalities Assessment (EA) was carried out dated 1 July 2017 at the time of the Cabinet decision, although this concentrated on the perceived equalities issues in relation to council services at that time, and so impact on High Path Day Centre and Merton Abbey Primary School rather than South Wimbledon Community Centre (SWCA) at Merton Hall. The 4 July 2017 Cabinet report outlined that SWCA could continue to provide for the majority of its lettings if a

smaller facility could be provided, and progress could be made in facilitating their work with local primary schools to improve lettings of hall facilities. Since this time a new community facility at 3 Pincott Road SW19 has been provided and SWCA now operate lettings to the hall at All Saints Primary School out of school hours.

8.2. A revised EA is Appendix 1 to this report and includes the matter of Merton Hall. The conclusion is that the EA has identified adjustments to remove negative impact and to better promote equality, and the action plan provides the following in relation to potential displacement of existing community groups including religious and other groups in relation to Merton Hall:

- 3 Pincott Road SW19 has been converted from being a vacant office space to provide two community rooms operated by SWCA,
- All Saints Primary school hall is now being operated by SWCA out of school hours,
- The Council has worked with SWCA on any group that may need a community facility;
- Ensure there is confirmation from the Elim Church that when letting the facility it will be available to all persons, including Lesbian, Gay, Bisexual and Transgender people, as required by equalities legislation; and
- Ensure that when built, the new Harris Wimbledon School will open extensive community facilities out of school hours.

9 CRIME AND DISORDER IMPLICATIONS

9.1. There are no specific crime and disorder implications.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. This is a complicated project with a series of risks to be managed throughout the process. The various risks are outlined in the main body of the report.

10.2. Cabinet needs to balance the risk of not implementing the Merton Hall scheme as quickly as possible, with the implications of the deferred opening of the school.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

Appendix 1 – Equality Analysis

12 BACKGROUND PAPERS

21 September 2017 Merton Hall Planning Application Committee Report

27 September 2017 Planning Decision Notice

4 July 2016 Cabinet report approving Harris Wimbledon site assembly

Tender report (confidential)

The Council's website provides further background including the scheme design for Merton Hall

<https://www2.merton.gov.uk/learning/schools/moreschoolplaces/harriswimbledon.htm>

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Equality Analysis



Please refer to the guidance for carrying out an [Equality Analysis](#).
 Text in blue is intended to provide guidance – you can delete this from your final version.

<p>What are the proposals being assessed?</p>	<p>In order to site a planned new secondary Free School in a preferred location opposite the High Path Estate, two existing council provisions will be affected – i) Merton Abbey Primary School, which will be required to share part of its existing playing field with the new school; ii) High Path Adult Day Centre, which will need to be re-located. The new school will require a period in temporary accommodation at the ex-MAE site in Whatley Avenue, thus iii) impacting on the adjacent Joseph Hood Primary School.</p> <p>An equalities impact was completed dated 1 July 2017 but at that time did not include the disposal of Merton Hall to Elim Pentecostal Church (which needs to move from their High Path site for the new school) as a key equalities element as it was not considered to be an equalities issue for the reasons stated in paragraph 2.15 of the 4 July 2016 Cabinet report “The Community Centre (Merton Hall) provides facilities for community groups and other organisations to let. The centre could continue to provide for the majority of its lettings if a smaller facility could be provided, and progress could be made in facilitating their work with local primary schools to improve lettings of hall facilities. A property at Pincott Road SW19 has been identified for their use, which only requires minor refurbishment and replacement facility was being provided.”</p> <p>Following a concern raised in an FOI that the Pentecostal Church movement has negative views on homosexuality, and will therefore affect access to such facilities by the Lesbian, Gay, Bisexual and Transgender Community in the London Borough of Merton through the transfer of a Council owned facility to the Elim Church, this Equalities Analysis has been undertaken again to ensure this aspect is fully considered and recorded.</p>
<p>Which Department/ Division has the responsibility for this?</p>	<p>CSF – Contracts and School Organisation; E+R – Sustainable Communities; H + C – Service Provision</p>

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Stage 1: Overview	
Name and job title of lead officer	Tom Procter – Head of Contracts and School Organisation
1. What are the aims, objectives and desired outcomes of your proposal? (Also explain proposals e.g. reduction/removal of service, deletion of posts, changing criteria etc)	Provision of a new secondary school in the borough, necessitating the purchase of sites not in the ownership of the council and impact on three existing council provisions as noted above, and potentially provision for the general community at Merton Hall.
2. How does this contribute to the council's corporate priorities?	The council's community plan confirms it is committed to "better opportunities for youngsters, to improve outcomes and life chances for all the borough's children." The council is also required by statute to provide sufficient suitable school places for all children in the borough who wish to take up a place in a Merton school.
3. Who will be affected by this proposal? For example who are the external/internal customers, communities, partners, stakeholders, the workforce etc.	<p>The new school will be able to offer up to 1050 co-educational places for young people wanting to attend a Merton school for their secondary education.</p> <p>Pupils attending Merton Abbey Primary School will be affected by the shared use agreement with the new Harris Federation secondary school in respect of a section of the primary school's current playing field required to deliver the new secondary school.</p> <p>Users of High Path Adult Day centre will need to move to a new location at Leyton Road.</p> <p>Pupils attending Joseph Hood Primary School will be affected for up to two years as the new secondary school's required temporary site, ex MAE, is adjacent to their school.</p> <p>Merton Hall will close and so will no longer be a community centre operated by South Wimbledon Community Association (SWCA)</p>
4. Is the responsibility shared with another department, authority or organisation? If so, who are the partners and who has overall responsibility?	Yes – CSF, E+R and H+C departments are all involved in delivering aspects of the new school. CSF department has overall lead responsibility.

PS09054

Stage 2: Collecting evidence/ data

5. What evidence have you considered as part of this assessment?

Provide details of the information you have reviewed to determine the impact your proposal would have on the protected characteristics (equality groups).

Considerable work has been undertaken to identify a potential site for the new secondary school – commissioned site searches have been undertaken by the council and Education Funding Agency and the High Path option is preferred because of its location, proximity to demand, the deliverability of a specification in line with central government's spatial recommendations for schools and the absence of other suitable alternatives. Meetings to consider impact on existing council provision have been held with the Headteacher and Chair of Governors in the two schools impacted and with the Head of Service responsible for the operation of the adults day centre.

In deciding to make Merton Hall surplus to council requirements the council has considered the existing use and considered whether they can be housed without any negative impact. The detailed analysis is outlined below.

Stage 3: Assessing impact and analysis

6. From the evidence you have considered, what areas of concern have you identified regarding the potential negative and positive impact on one or more protected characteristics (equality groups)?

Protected characteristic (equality group)	Tick which applies		Tick which applies		Reason Briefly explain what positive or negative impact has been identified
	Positive impact		Potential negative impact		
	Yes	No	Yes	No	
Age			√		<p>Children attending Merton Abbey Primary School will lose access to grassed areas of their existing playing field. They will gain opportunities in terms of access to specialist provision in a close-by secondary school.</p> <p>Children attending Joseph Hood Primary School will be educated in close proximity to secondary school children for a period of up to two years. This could present risks of bullying or more positively the opportunity to interact with older pupils in cross school projects. NB the pupils will only be a year or two older than the top KS2 classes.</p> <p>Adults attending High Path Adults Day Centre will need to travel to a new location to access their current activities. They have been and will continue to be prepared for these changes.</p>
Disability			√		If Merton Hall is no longer open as a general community facility then there is not necessarily the assurance that these groups would have appropriate facilities without considering mitigation factors. However the owners of the new facility will be covered by existing equalities legislation
Gender Reassignment			√		“
Marriage and Civil Partnership			√		“
Pregnancy and Maternity					
Race			√		“
Religion/ belief			√		“
Sex (Gender)					“
Sexual orientation			√		“
Socio-economic status			√		Pupils attending Merton Abbey Primary School are typically economically more disadvantaged than their peers in the Wimbledon/South Wimbledon areas. Reduced access to playing field activity could, therefore, increase

					vulnerability to issues such as childhood obesity. Access to specialist provision in the new school could mitigate this.
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7. If you have identified a negative impact, how do you plan to mitigate it?

It is intended that the current Merton Abbey Primary School playing field area would be resurfaced with artificial turf. Albeit that a shared use agreement will be needed in respect of access to this area, and that it will not be available to the primary school pupils for as much of the school day as currently, it is considered that there will be greater opportunity overall throughout the year as the artificial surface will not be rendered un-useable due to inclement weather as is the case with the current surface. The impact will be further mitigated by assuring the primary school use of the artificial turfed area during out of school hours. Further, there will be increased access overall for local children and young people for sports and recreational activities.

The potential risks to primary school children at Joseph Hood from having an adjacent secondary school will be mitigated by i) staggered starts to the school day across both schools; ii) appropriate security measures both physical and provided by school staff and iii) the ethos and culture of Harris Federation schools ensuring close supervision of pupils and high expectations re standards of behaviour.

The current High Path Adults Day Centre will be re-provided at Leyton Road – although users will need to travel to an alternative location (some via transport provided or commissioned by the council), the new site is close to the existing provision. Following a feasibility study and appropriate budget allocation, necessary enabling works at Leyton Road will result in the service ‘offer’ to users being the same as currently provided in the existing day centre accommodation.

Replacement facilities will be provided for Merton Hall as follows:

- Pincott Road has been converted from office to provide community space operated by South Wimbledon Community Association (SWCA),
- All Saints Primary school hall is now being operated by SWCA out of school hours,
- When built, the new Harris Wimbledon School will have extensive community facilities out of school hours
- Council officers have spoken to the Elim Church who confirm that the facility will be available for lettings when not required for their purposes. They have also confirmed that all persons would be able to use the facility, whether Lesbian, Gay, Bisexual and Transgender, in keeping with equalities legislation

The council is also aware that there is still capacity from local primary schools out of school hours for letting their facilities and other council building such as Morden Hall, Vestry Hall, and park pavilions.

Stage 4: Conclusion of the Equality Analysis

8. Which of the following statements best describe the outcome of the EA (Tick one box only)

Please refer to the guidance for carrying out Equality Impact Assessments is available on the intranet for further information about these outcomes and what they mean for your proposal

- Outcome 1** – The EA has not identified any potential for discrimination or negative impact and all opportunities to promote equality are being addressed. **No changes are required.**
- Outcome 2** – The EA has identified adjustments to remove negative impact or to better promote equality. **Actions you propose to take to do this should be included in the Action Plan.**
- Outcome 3** – The EA has identified some potential for negative impact or some missed opportunities to promote equality and it may not be possible to mitigate this fully. **If you propose to continue with proposals you must include the justification for this in Section 10 below, and include actions you propose to take to remove negative impact or to better promote equality in the Action Plan. You must ensure that your proposed action is in line with the PSED to have ‘due regard’ and you are advised to seek Legal Advice.**
- Outcome 4** – The EA shows actual or potential unlawful discrimination. **Stop and rethink your proposals.**

Stage 5: Improvement Action Plan

9. Equality Analysis Improvement Action Plan template – Making adjustments for negative impact

This action plan should be completed after the analysis and should outline action(s) to be taken to mitigate the potential negative impact identified (expanding on information provided in Section 7 above).

Negative impact/ gap in information identified in the Equality Analysis	Action required to mitigate	How will you know this is achieved? e.g. performance measure/ target)	By when	Existing or additional resources?	Lead Officer	Action added to divisional/ team plan?
Reduced access to playing fields for Merton Abbey School pupils	Laying of artificial turfed area	Establishment of shared use agreement	At time of building school	Fully funded by ESFA	Tom Procter	N/A
Potential bullying risk to pupils attending Joseph Flood Primary School	Good working relationships between the senior leadership teams at JHPS and new Harris federation secondary school	Working protocols in place	In progress	Existing	Tom Procter	N/A
Users of Adults Day Centre will be required to move to new site	Consultation with existing service users; new transport arrangements in place; advice re travel for users not provided with council transport.	Consultation completed and case by case review of travel arrangements	In progress	Existing	Andy Ottaway-Searle	N/A
Potential displacement of existing community groups including religious and other groups	<ol style="list-style-type: none"> 1. Pincott Road has been converted from office to provide community space operated by South Wimbledon Community Association (SWCA), 2. All Saints Primary school hall is now being operated by SWCA out of school hours, 3. Work with SWCA on any group that may need a community facility See Annex 1 for evidence 4. Ensure there is confirmation from the Elim Church that when letting the facility it will be available to all persons, including Lesbian, Gay, Bisexual and Transgender people, in 	1, 2, 3 and 4 completed. 5 confirmed for opening of school a High Path	4 by September 2020	Completed from project budget	Damian Hemming Tom Procter	N/A

	keeping with equalities legislation 5. Ensure that when built, the new Harris Wimbledon School to open extensive community facilities out of school hours					
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Note that the full impact of the decision may only be known after the proposals have been implemented; therefore it is important the effective monitoring is in place to assess the impact.

Stage 6: Reporting outcomes

10. Summary of the equality analysis

This section can also be used in your decision making reports (CMT/Cabinet/etc) but you must also attach the assessment to the report, or provide a hyperlink

This Equality Analysis has resulted in an Outcome [Two](#) Assessment
 Please include here a summary of the key findings of your assessment.
 Existing service users attending two Merton Primary Schools and One Adults day Centre will be impacted by the proposal to site a new secondary Free school on High Path. The impact has been assessed and will be mitigated as outlined in this assessment.

Stage 7: Sign off by Director/ Head of Service

Assessment completed by	Tom Procter, Head of Contracts and School Organisation	Signature: Tom Procter	Date: 31/10/17
Improvement action plan signed off by Director/ Head of Service	Jane McSherry , Assistant Director of Education	Signature: Jane McSherry	Date: 10/11/17

Annex 1 – Analysis of user groups at Merton Hall

Use of Merton Hall up to 2016 (Note - SWCA provided all info on users. The time periods were selected for periods prior to any announcement from us or SWCA on the ending of their lease at Merton Hall to avoid any impact of ‘user blight’)

- 12 regular user groups (as of July 2016)
- 97 casual user bookings over the period Jan 2015 – Sept 16.

Merton Hall (SWCA) Regular bookings		
Day	Name of User	Time
Monday	Capoeira Adults Main Hall	20:00-21:30
Tuesday	Siegeris Main Hall/Balcony	16:00-19:30
	C P Fitness Balcony	19:15-20:45
Wednesday	Sanga 7 Balcony	19:00-21:00
Thursday	Perform Workshop Balcony	15:45-18:00
	Shogun Martial Arts Balcony	19:00-21:00
Friday	Johane Masowe Balcony	08:45-17:00
	Om Sakthi Pooja Bar Area	10:00-14:00
	Ratnavadivel Hindu Balcony	18:00-22:00
	Kenshukai Karate Main Hall	18:30-22:00
Saturday	Rugby Tots Main Hall	09:00-12:00
Sunday	New Life Church Main Hall	10:00-13:00

SUMMARY CASUAL USERS/EVENTS	
Birth/ Baptism / Funeral / Wake / Memorial	20
Party / gatherings	27
Religious / Cultural	9
Training / Professional	12
Musical / Dance / Theatrical	19
Misc / Other	8
Wedding	2
TOTAL	97

Analysis of regular groups previously at Merton Hall:

Group	Status
Capoeira Adults	Opted to move to alternative accommodation (non-SWCA)
Pegeris	Moved to All Saints School Hall and Victory Road Annexe (managed by SWCA)
CP Fitness	Opted to move to alternative accommodation (non-SWCA) as Pincott Rd was unsuitable for their needs
Sanga 7	Opted to move to alternative accommodation (non-SWCA)
Perform Workshop	Moving to All Saints School Hall in January (managed by SWCA)
Shogun Martial Arts	Opted to move to alternative accommodation (non-SWCA) - All Saints Church Hall
Johane Masowe	Moving to King George V park (council facility managed by idverde) in October
Om Sakthi Pooja	Moving to Pincott Road in November (managed by SWCA)
* Wimbledon Mandram (Ratnavadivel Hindu)	Offered Pincott Road and although raised concern and one point they have now moved here
Kenshukai Karate	Moved to All Saints School Hall (managed by SWCA)
Rugby Tots	Opted to move to alternative accommodation (non-SWCA) - Raynes Park High School
New Life Church	Group closed (unrelated to move from Merton Hall)

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Committee: Cabinet

Date: 11 December 2017

Subject: Recommendation to award a contract for a replacement PABX and associated telephony services for the Council.

Lead officer: - Mark Humphries, Assistant Director Infrastructure & Transactions

Lead member: - Councillor Mark Allison, Deputy Leader and Cabinet Member for Finance

Contact officer: - Richard Warren, Head of IT Service Delivery

RECOMMENDATIONS:

That Cabinet approve the award of a contract to Company D for the provision of a replacement PABX and associated telephony services for a period of 5 years, with an option to extend for a further 2 years, thus giving an overall contract value of £2,077,456.

PURPOSE OF REPORT AND EXECUTIVE SUMMARY

The manufacturers support for the Council's current PABX (Private Automatic Branch Exchange) telephony equipment ends in June 2018, and therefore the hardware and associated infrastructure has to be replaced to ensure that the Council is able to maintain a robust and reliable telephony system.

Following a comprehensive review of the various different telephony options available on the market and having undertaken a detailed analysis of the Council's current and likely future telephony requirements, a technical specification of requirements was written and prices obtained for a replacement solution through a competitive procurement exercise.

After completing a detailed analysis of the tender returns, Company D had the highest moderated score in respect to both price and quality and therefore their tender is recommended for acceptance.

DETAILS

The specialist technical support for the Council's current on premise Philips PABX telephony system will no longer be available from June 2018, and therefore the equipment has to be replaced.

A specialist telecommunications consultant was engaged to manage the project and oversee both the procurement and implementation of the new system.

The project manager is being supported by a wider project delivery team made up of technical specialists from IT Services and departmental representatives from teams that deal with high volumes of telephone calls, including the main Contact Centre.

A comprehensive review of the various different telephony solutions available on the market was undertaken, and this, together with a detailed analysis of the Council's current and likely future telephony requirements, was used to identify the most suitable and cost effective solution.

Given the recent advances made in terms of both mobile and fixed telephone technology and need for the Council to deliver more efficient and cost effective services, the decision was made to move away from our current traditional operating model utilising fixed equipment installed at the Civic centre to a new offsite cloud based solution.

The new cloud based solution will deliver improved availability and flexibility of services whilst also providing cost efficiencies and improved disaster recovery arrangements, should the Civic Centre building ever become unavailable for any reason.

On that basis a market engagement session for potential bidders was arranged to raise awareness of the forthcoming procurement exercise and potential suppliers in lots 5, 6 and 10 of the Crown Commercial Services (CCS) RM1045 framework were invited to submit bids against a set of operational and technical requirements.

Four submissions were received on the due date and details of these are shown in table below.

Supplier	Bid Price £	Initial Ranking
Company A	1,128,126.00	2
Company B	2,071,154.00	4
Company C	1,020,436.00	1
Company D	1,164,904.00	3

An evaluation panel made up of subject matter experts and representatives from user groups independently evaluated and scored the bids in terms of technology, functionality, cost and quality.

The individual scores, which were weighted on the basis of 40% quality and 60% price, were then moderated by a member of the Council's Commercial Services team to ensure consistency, with the moderated scores as shown in Appendix 1 of this report.

In order to ensure that the bids were assessed in a fair and consistent manner, the detailed technical information contained within each of the bids was analysed to calculate the “actual” operating cost for each of the various different technical solutions.

This detailed analysis provided actual operating costs and on that basis the submissions were assessed and scored in respect to being the Most Economical Advantageous Tender and included elements such as the cost associated with: -

- Maintenance of voice lines required to support some bids.
- Maintenance and support of existing systems being retained in order to support some bids.
- Internal Council resources required to manually port over mobiles from the current provider to new service provider.
- A notional figure of £25,000.00 required for delivering internal user training.
- A notional figure of £35,000.00 to purchase a supply of new headsets to facilitate the operation of Skype for Business.

Supplier	Bid Price £	Actual Operating cost calculated over a 60 month period	Adjusted Ranking
Company A	1,128,126.00	1,558,885	2
Company B	2,071,154.00	2,493,847	4
Company C	1,020,436.00	1,651,891	3
Company D	1,164,904.00	1,558,188	1

The final moderated scores based on the actual operational cost and qualitative assessment for each of the bids are shown in the table below

Bidder	Quality Score (out of 20 points)	Quality Weighting @ 40%	Price Scores @ 60%	Price Weighting	Final Weighted Score	Final Ranking
Company A	11	21	59.97	60	81	2
Company B	12	24	39.74	40	64	4
Company C	12	24	56.62	57	81	2
Company D	16	32	60.00	60	92	1

The bid from Company D offers a fully cloud hosted solution through their product, with the provision of a fully integrated mobile phone service and does not require the Council to retain any of its existing telephony infrastructure.

Like all the other tenders received, the proposal from Company D does retain the Council's existing Liberty Netcall contact centre software solution, however they are the only provider that are able to offer an offsite virtual contact centre solution, which may potentially provide some further efficiency gains and financial savings in the future.

All of the solutions received utilise the Microsoft Skype for Business (SfB) product, however the offer from Company D also offers additional features that the standard Skype for Business product does not include, such as call recording (where appropriate) and operator switchboard services.

Their product will provide the Council with a more cost-effective way to communicate across the business and with external parties and allow staff to collaborate more efficiently from wherever they are working through an intuitive interface, consolidated directory and free calls to other Council employees.

ALTERNATIVE OPTIONS

Potentially we could re-tender the project and specify an on premise solution in order to reduce operating costs, but this would create an additional risk in relation to the delay in the replacement of the existing equipment. This would also be at odds with the Council's wider agreed IT strategy of moving to hosted or cloud based systems in order to reduce operational risks and improving our disaster recovery and business continuity arrangements.

CONSULTATION UNDERTAKEN OR PROPOSED

As part of the wider project planning process, detailed consultation was undertaken with internal users and key stakeholders. This included a number of employee/management engagement sessions and visits to tradeshow and specialist suppliers as part of a wider information and requirements gathering process.

In addition a vendor 'Open Day' was also arranged which was well attended by a number of potential bidders that were interested in responding to the ITT. At the meeting, vendors were given the opportunity to ask questions and seek clarification on the contents of the invitation to tender and the Council's wider strategic direction for both business and telephony systems.

TIMETABLE

The anticipated timescale for completion of the project (subject to approval and agreement with the winning provider) are:-

Procurement Board sign off – October 2017
Obtain Cabinet Approval to let the contract December 2017
Scrutiny and Standstill period - December 2017
Formal award of contract – December 2017
Initial setup and commissioning – January to March 2018
User acceptance testing – March to May 2018
Roll out of new solution – June to December 2018

FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

The cost of the project is based over a 60 month contract period and there is £700,000 of capital funding available within the 2017/18 capital programme for the delivery of the project.

Summary of Financial Implications

Funding required to implement the new system

Capital	£260,018.00
Revenue (per annum)	£259,634.00
Current revenue operating cost for the existing PABX infrastructure	£265,471.00

Overall, this delivers a net revenue saving of approximately £6,000.00 per annum with a potential capital saving of approximately £440,000.00

During the initial scoping meetings with the supplier, we will discuss different financing models to investigate whether there is a possibility to shift costs from revenue to capital.

The capital expenditure covers all implementation, circuits, mobile conversion costs for porting, unlocking, and the provision of headsets for use with Skype for Business.

The revenue expenditure covers software licences, fixed and mobile call charges which have been based on existing volumes.

There is also the requirement to provide Microsoft Office 365 and Azure Active Directory licences, which will be provided through the current Microsoft Enterprise Agreement.

The current operating costs covers existing maintenance charges and fixed and mobile recharges, which vary on monthly basis.

The current operating cost relies on achieving the same level of recharges to offset the budget. We will review the recharging model with Resources once the financing model has been agreed.

LEGAL AND STATUTORY IMPLICATIONS

TBC by SLLP.

HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

None for the purposes of this report.

CRIME AND DISORDER IMPLICATIONS

None for the purposes of this report.

RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

The use of a cloud / hosted solution provides better Disaster Recovery and Business Continuity arrangements, which in turn lowers the risks of disruption and potential loss of service delivery.

APPENDICES

Appendix 1 – Evaluation matrix of moderated scores.

Appendix 2 – Exempt for public notice due to commercial information

BACKGROUND PAPERS

None for the purposes of this report.

Appendix 1 – Quality moderated scores

Number	Method Statement	Question	Weighting (40%)	Company A		Company B		Company C		Company D	
				Score (0-5)	Weighted Score	Score (0-5)	Weighted Score	Score (0-5)	Weighted Score	Score (0-5)	Weighted Score
1	Core Requirements	Can you please explain how your solution will address the core requirements of fixed telephony, contact centre integration or replacement, mobile working technology and mobile phone integration? Can you also please provide information on any partners or sub-contractors that you will use to provide these services?	#####	2	4.00	3	6.00	3	6.00	4	8.00
2	Resilience and Redundancy	Can you please explain your solutions resilience and redundancy?	15	2	6.00	3	9.00	3	9.00	4	12.00
3	Implementation Services	Can you please briefly explain what your approach/strategy will be for implementing your solution with no/minimum disruption to users? Please highlight what resources you would expect Merton Council to provide, both technical and non-technical.	10	4	8.00	3	6.00	3	6.00	4	8.00
4	SLA Options	Can you please give a brief description of your different SLA options and how they are managed to improve your solution's performance from day one?	5	3	3.00	3	3.00	3	3.00	4	4.00
Total Scores				11	21.00	12	24.00	12	24.00	16	32.00

Committee: Cabinet

Date: 11 December 2017

Wards: All

Subject: Consultation on planning guidance for a transparent approach to development viability

Lead officer: Chris Lee, Director for Environment and Regeneration

Lead member: Councillor Martin Whelton, Cabinet Member for Regeneration, Environment and Housing

Contact officer: Tara Butler, deputy FutureMerton manager

Recommendations:

1. That Cabinet supports greater transparency in assessing planning applications in Merton by approving a 6 week consultation on a draft *Development Viability* supplementary planning document on and the planning application validation checklist.
 2. That delegated authority is granted to the Director of Environment to approve these documents in consultation with the Cabinet Member for Environment, Housing and Regeneration and in consideration of the Borough Plan Advisory Committee's recommendations at their meeting in early January 2018.
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. When developers apply for planning permission, they must provide an appraisal of the financial viability of their development if they want to justify why their particular scheme cannot afford to meet all the council's planning policies and still remain economically viable.
- 1.2. To ensure greater transparency and to help explain this complex process, it is proposed that the council drafts a short *Development Viability* supplementary planning document for 6-week consultation in early 2018.
- 1.3. This short document would signpost the Mayor of London's comprehensive viability guidance (published August 2017) and setting out any further essential details that are specific to Merton.
- 1.4. It is also proposed that, in its role as Local Planning Authority, Merton Council has a transparent and open approach to assessing planning applications by publishing development viability appraisals submitted with planning applications in Merton. This approach would also be subject to six-week consultation at the same time as part of a validation checklist, as approved by Cabinet in September 2016.
- 1.5. These documents are not attached to this report. Delegated authority is sought for the Director of Environment and Regeneration to approve these documents, in consultation with the Cabinet Member and in consideration of the Borough Plan Advisory Committee's advice at their meeting in January 2018.

2 DETAILS

Greater transparency in development viability – new Merton guidance

- 2.1. Applicants provide development viability appraisals with many planning applications to justify why their particular scheme cannot afford to meet all the council's planning policy requirements, such as affordable housing.
- 2.2. National Planning Practice Guidance states "*The National Planning Policy Framework [2012] policy on viability applies also to decision-taking. Decision-taking on individual schemes does not normally require an assessment of viability. However viability can be important where planning obligations or other costs are being introduced. In these cases decisions must be underpinned by an understanding of viability, ensuring realistic decisions are made to support development and promote economic growth. Where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible*".
- 2.3. As the principle of development viability has been part of the NPPF since 2012, the London Plan and local planning policies [e.g. Merton's Core Planning Strategy CS8 housing choice] take forward this principle.
- 2.4. The most common matter that developers challenge as being economically unviable is the amount of affordable housing they can provide with their scheme.
- 2.5. Moving forward, the council is keen to increase transparency and accountability by ensuring that everybody has access to development viability appraisals for planning applications in Merton. Currently these documents are not published. This report recommends that the council consults for six weeks on the proposal publish development viability appraisals accompanying planning applications submitted to the council (in its capacity as Local Planning Authority) from 01 April 2018.
- 2.6. In August 2017, the Mayor of London adopted "*Homes for Londoners: affordable housing and viability supplementary planning guidance*" which applies to all London boroughs, including Merton.
https://www.london.gov.uk/sites/default/files/ah_viability_spg_20170816.pdf
- 2.7. This is very comprehensive guidance, setting out the background, explaining inputs into viability assessments and setting out clearly what can be expected of applicants. It is also helpful for residents and others who are interested in development.
- 2.8. It is proposed to draft a short *Development Viability* supplementary planning document, supplementary to Merton's Core Planning Strategy, which will signpost to the Mayor's comprehensive guidance where appropriate and be supplementary to Merton's Core Planning Strategy.
- 2.9. In September 2016, Cabinet resolved to consult on Merton's list of requirements that planning applicants have to meet when submitting planning applications, known as the Planning Application Validation Checklist. This updated checklist would clearly set out that in its capacity as Local Planning Authority, Merton Council intends to publish in full development viability appraisals that are submitted with planning

applications. It is proposed that this consultation coincides with the consultation on Merton's draft *Development Viability* in early 2018.

- 2.10. It is recommended that Cabinet authorises delegated authority for the Director of Environment and Regeneration in consultation with the Cabinet Member for Regeneration, Environment and Housing to approve the consultation documents.

3 ALTERNATIVE OPTIONS

- 3.1. One alternative option is for Merton not to produce development viability planning guidance. This is rejected as development viability is a complex matter where developers, residents and others often raise queries. This short document will help direct people to where they can find answers to their questions.
- 3.2. Another alternative option is for Merton to produce extensive development viability guidance. This option is rejected as the Mayor of London's development viability guidance is very comprehensive and already applies to all relevant developments within London, including in Merton. There is an opportunity to streamline planning guidance by referring to this matter and our proposed approach also reduces scope for confusion.
- 3.3. If Merton continues without an up to date validation checklist the planning authority will be in a weaker position as far as being able to assess planning applications in terms as policy compliance within statutory timeframes.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. It is proposed to start an online consultation for six weeks in January 2017, following the Borough Plan Advisory Committee which will take place in early January 2018.

5 TIMETABLE

- 5.1. Subject to Cabinet approval in December 2017, it is proposed to:
- Consult the Borough Plan Advisory Committee in early 2018
 - Seek delegated approval to consult for six weeks
 - Collate consultation results, consider issues raised, amend the document as appropriate and recommend adoption to Cabinet in March 2018

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The matters that are subject of this report involve planning proposals that if implemented would result in more effective planning decisions in support of development that will increase income and improve the reputation of the council as far as governance surrounding planning.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. In relation to the draft *development viability* supplementary planning documents the Town and Country Planning (Local Planning) (England) Regulations 2012 sets out the legislative requirements for the production of supplementary planning documents. The council will conduct the consultation in accordance with the principles in Merton's Statement of Community Involvement 2006
- 7.2. The legal and statutory implications of the validation checklist have already been considered by Cabinet at their meeting in September 2016
<https://democracy.merton.gov.uk/documents/s14111/Report%20CIL%20and%20Validation.pdf>

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. N/A

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. N/A

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. N/A

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- 11.1. National Planning Policy Framework 2012
- 11.2. National Planning Practice Guidance
- 11.3. Cabinet report on validation checklists: September 2016
<https://democracy.merton.gov.uk/documents/s14111/Report%20CIL%20and%20Validation.pdf>
- 11.4. Mayor of London adopted "*Homes for Londoners: affordable housing and viability supplementary planning guidance*" which applies to all London boroughs, including Merton.
https://www.london.gov.uk/sites/default/files/ah_viability_spg_20170816.pdf

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