



CABINET REPORT

Report Title	Procurement of contractor to develop Council owned land at St.Peter's Way
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AGENDA STATUS: Public

Cabinet Meeting Date:	11 April 2018
Key Decision:	Yes
Within Policy:	Yes
Policy Document:	No
Directorates:	Regeneration, Enterprise & Planning,
Accountable Cabinet Member:	Councillor Tim Hadland
Ward(s)	Castle

1. Purpose

This report seeks the agreement of Cabinet:

- 1.1 To approve the process toward procuring a contractor to construct a new office development at Horizon Park, St.Peter's Way, to be occupied by Northampton Partnership Homes Limited.
- 1.2 To agree the process for concluding the lease arrangements between the Council and Northampton Partnership Homes Limited.
- 1.3 To approve the appointment of the project Design Team.

2. Recommendations

That Cabinet agrees:

- 2.1 That subject to a positive gateway exercise being carried out in consultation with the Cabinet Member for Regeneration, Enterprise and Planning, the Cabinet Member for Finance, and the Chief Finance Officer; the Head of Economic Development and Regeneration be authorised to commence the procurement of a contractor through an OJEU-compliant Open Tender process in accordance with the Public Contract Regulations 2015.

- 2.2 That subject to a satisfactory review of the business cases (encompassing both an HRA Value for Money position and the Council's General Fund position) being carried out after receipt of tenders, the Head of Economic Development and Regeneration, acting in consultation with the Borough Secretary & Monitoring Officer, the Chief Finance Officer and the Cabinet Member for Regeneration, Enterprise and Planning, be authorised to finalise the terms of the Lease between the Council and Northampton Partnership Homes Limited, and to enter into an Agreement For Lease (AFL).
- 2.3 To consider the recommendations of the Horizon Park Project Board relating to the project design team, and agrees to appoint RG+P Ltd., Aecom Limited, Desco (Design and Consultancy) Ltd., and Wood Group Ltd. as the Design Team pursuant to paragraph 3.1.8 of the report.
- 2.4 That a further report be brought to Cabinet following the procurement exercise making recommendations on the award of the main construction contract.
- 2.5 Any further issues that arise will be reported to Cabinet.

3. Issues and Choices

3.1 Report Background

- 3.1.1 At its meeting on 19 July 2017 Cabinet approved the purchase from National Grid of a strategic site within the Northampton Waterside Enterprise Zone at St.Peter's Way. The site was acquired primarily to allow the development of new office accommodation, for which Northampton Partnership Homes Limited (Northampton Partnership Homes) had expressed interest in occupying. Following completion of the necessary legal agreements the acquisition was completed in September 2017.
- 3.1.2 The earlier Cabinet report of 15 March 2017 instructed that following completion of the acquisition a further report be brought to Cabinet concerning the procurement arrangements for the main contractor and the programme for the development. This current report provides that update.
- 3.1.3 Since acquiring the site activity has focussed on four areas:
 - Site investigation works have been carried out to confirm the proposed location of the development, and various topographical and other surveys have been carried out.
 - Detailed discussions have been held to develop the Heads of Terms for the Agreement to Lease the premises to Northampton Partnership Homes.
 - The Horizon Park Project Board have reviewed the possible procurement routes to secure a main contractor.
 - The Horizon Park Project Board have recommended the appointment of the Design Team

- 3.1.4 The site investigations carried out to date have built on the knowledge gained from the due diligence work carried out prior to acquisition of the site. They have confirmed that the condition and location of the main sewer passing across the site will not impinge on the proposed development. Further intrusive investigations are in the process of being carried out to determine whether a slab or piled foundations are appropriate for the site, with the expectation being that the previous uses will require a sleeved pile foundation approach. None of the work carried out to date suggests that the original design aspiration for the development i.e. refurbishment of the existing Horizon House building, linked by an atrium to a new light steel office structure, is inappropriate.
- 3.1.5 In parallel with the site investigations the project architects have been developing an outline programme for the development. This will need further work following the appointment of the full Design Team, but at the moment the key indicative milestones are:
- Submission of Planning Application : End July 2018
 - Start of procurement exercise: End September 2018
 - Award of main contract: End November 2018
 - Start on site: End January 2019
 - Building completion: End March 2020
 - Building occupation: April 2020
- 3.1.6 The lease to Northampton Partnership Homes is to be on commercial terms, and will be on a Full Repairing and Insuring (FRI) basis. Negotiations on the Heads of Terms for the Lease have progressed well, and in principle agreement has been reached on a lease period of 40 years, with an option to break after 10 years, and thereafter every 15 years. The current estimated rent is circa £500k per annum, but this will be reviewed taking into account known construction costs following receipt of tenders, and forecast market rates at commencement of the lease following completion of the building early in 2020. There are aspects of the in principle Heads of Terms that require further refinement as the Business Case is refreshed, the key issue being whether or not to allow a rent free period on occupation..
- 3.1.7 The Horizon Park Project Board have considered the options for securing a main contractor and have recommended that an Open Tender procedure is followed. The form of contract will be a single-stage Design and Build contract. The reasons behind this are considered further in the Choices Section at paragraph 3.3 below.
- 3.1.8 To maintain momentum on the development the Council have carried out a mini-tender exercise to procure the Design Team through the NEPRO Procurement Framework. This has resulted in recommending the appointment of the following Design Team members:
- Project architects. RG+P Ltd, who were Northampton Partnership Homes original preferred architect following an initial design competition.

- Civil & structural engineers. Wood Group Ltd, who already have detailed knowledge of the site having been involved in the due diligence carried out prior to acquisition.
- Mechanical & electrical engineers. Desco (design and Consultancy) Ltd.
- Project managers & cost consultants. Aecom Ltd.

3.1.9 The Design Team appointments will be made on an individual, not group, basis, with no contract being in excess of £250,000.

3.2 Issues

- 3.2.1 The Cabinet report of 19 July 2017 which approved acquisition of the site provided an initial analysis of the Value for Money aspects for both the General Fund and the Housing Revenue Account should the development proceed. The issues identified then remain today, and it will be necessary to revisit the business case once we have completed the procurement exercise and have an accurate cost for the development. This will also require Northampton Partnership Homes to provide further detail in respect of the savings they propose to fund the increase in cost, so as not to be seen to add 'overhead cost' to the HRA
- 3.2.2 Prior to award of the contract it will be necessary to enter into the Agreement for Lease with Northampton Partnership Homes in order to safeguard the Council's position.

3.3 Choices (Options)

- 3.3.1 In considering this report Members have the option of not proceeding with the development at all. This option is not recommended for three reasons. First, the Council wish to see the site developed as it lies within the Northampton Waterside Enterprise Zone and will provide a contribution to Unified Business Rate Uplift receipts. Second, this is one of the key regeneration sites in and around the town centre, and its development will both secure improvement of a main gateway to the town, and send a positive message to the development market. Third, the relocation of Northampton Partnership Homes will provide opportunities to develop part of the Westbridge depot site, leading to the creation of new jobs and generating a capital receipt for the Council.
- 3.3.2 There are two main options to be considered in respect of procuring the main contractor. These are to conduct an Open Tender exercise compliant with the Public Contract Regulations 2015, or to select a contractor from one of several procurement frameworks the Council can access, either with or without a mini-competition.
- 3.3.3 The benefit of using the Open Tender process is that companies will bid using the most up to date pricing information, and it is a more competitive approach than a framework solution. As such there is a reasonable expectation that the tender prices will be more competitive than those obtained through a framework. The disadvantages of this approach are that it takes longer than a framework solution, perhaps by 3 to 6 months, is more resource intensive in

terms of staff time, and there is no guarantee that we will receive any bids from the market. In this instance the time delay is not considered a significant factor as much of this time will be spent doing the detailed design prior to submission of a planning application.

- 3.3.4 The key advantages of using a framework to select a contractor are that it is a simplified process which is significantly quicker than the Open Tender approach, and is less resource intensive. The main disadvantage of using a framework is the perception that the lack of real competition will result in tenders which are not as competitive as those resulting from an Open Tender exercise.
- 3.3.5 The Horizon Park Project Board have considered the options for procurement of the main contractor. Their recommendation is that Council conduct an Open Tender exercise as this will provide the greatest degree of control over appointment of the contractor, and will provide a true market test of cost.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 The recommendations of this report are within policy and have no policy implications.

4.2 Resources and Risk

Financial

- 4.2.1.1 Funding for the development has been included in the Capital Programme approved by Council in March 2018. The resource approved is £9.1m.
- 4.2.1.2 The business case will be reviewed and updated in parallel with the design process to ensure that the development remains affordable. A gateway review will be carried out by officers in consultation with the appropriate Lead Members once the design work is complete and the cost plan has been updated, and only if the business case is judged to be positive at that time will the procurement notices be issued. Following completion of the procurement exercise a further report will be taken to Cabinet to approve an updated financial position before awarding the Contract to the preferred contractor.

Risks

- 4.2.2 There are three key risks. First, that we fail to receive any tenders. Second, that tender prices exceed the funding approved in the Capital Programme. Third, that the review of the business case fails to support proceeding with the development.
- 4.2.3 The risk of failing to receive any tenders is low. However, should the risk crystallise we will have the option of trying to obtain a contractor through a framework, a route that would almost certainly be successful.

- 4.2.4 The risk of the tenders exceeding the available budget is considered to be low, the budget having been based on a detailed cost plan developed following the design competition mentioned in para. 3.1.8. The design team includes a strong cost control function, and strict control over the design/cost equation will be maintained throughout the design process.
- 4.2.5 The original business case will be reviewed and updated to take account of the known construction cost once this is known, together with updated market rent projections for early 2020. It is unlikely that there will be a significant shift in the outcome of the review, but should there be the first step will be to undertake additional value engineering exercises to identify possible construction cost reductions.
- 4.2.6 It is possible that the business case review will demonstrate that the cost of proceeding exceeds the budget and that Northampton Partnership Homes are not able to afford the increase in lease required to support the development cost; that the business case in relation to HRA VfM is not evidenced and/or the cost growth is not mitigated by savings to management / overheads within Northampton Partnership Homes.

4.3 Legal

- 4.3.1 The proposal to secure a contractor for the works using the Open Tender procedure is legally compliant and in accordance with the Public Contract Regulations 2015
- 4.3.2 The Council will be required to ensure that there is compliance with the Council's Contract Procedure Rules and all relevant statutory provisions and regulations both in the appointment of contractors, and the formal award of all contracts for this project.
- 4.3.3 The position regarding the lease is generally set out in the report, however it should be noted that the terms of the recommended lease will be agreed by the Borough Secretary and any significant issues that may arise will if necessary be reported back to Cabinet. The intention to charge a commercial rent to Northampton Partnership Homes as set out in the Cabinet report of 19 July 2017 means that there is no State Aid present.
- 4.3.4 Cabinet should be advised the Council may be required to appoint external legal advisors to support in-house resources as appropriate to ensure implementation of the construction contract and lease within the timeframes set out in this report.

4.4 Equality and Health

- 4.4.1 Services to the public will be unchanged as a result of the recommendations of this report. There are therefore no direct equality or health implications.

4.5 Consultees (Internal and External)

- 4.5.1 Consultation has taken place with Northampton Partnership Homes, SEMLEP and the Enterprise Zone board over the proposals.

4.6 How the Proposals deliver Priority Outcomes

4.6.1 By continuing the development of the Enterprise Zone and enhancing a key gateway into the town the project will contribute to the priority corporate outcome:

- A vibrant successful town for now and the future

5. Background Papers

Cabinet report on purchase of land at St.Peter's Way, July 2017

Cabinet report on purchase of land at St.Peter's Way, March 2017

Cabinet report on purchase of land at St.Peter's Way, October 2016

Finance and Performance report, September 2015

Horizon Park Project Board report "Construction Procurement Options", December 2017

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