

MUNICIPAL YEAR 2018/2019 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

OPERATIONAL DECISION OF:

Executive Director
Place

Agenda – Part: 1	KD Num: KD4877
Subject: Enfield Highway Carnegie Building – Authority to Procure	
Wards: Enfield Highway	

Contact officer and telephone number: Rebecca Hammond, Project Leader Strategic Property Services x 8007

Email: rebecca.hammond@enfield.gov.uk

1. EXECUTIVE SUMMARY

- 1.1. This report is separated into Part 1 and Part 2 as it contains information that is exempt from disclosure. Releasing it would or would be likely to prejudice the commercial interests of the Council.
- 1.2. This report relates to one of the initial projects to be delivered within the CPIP - the relocation of the Integrated Learning Disabilities Services (ILDS) from St. Andrew's Court to Enfield Highway Carnegie Building (EHCB).
- 1.3. This report is the Approval to Procure for the scheme required under Contract Procedure Rules and follows on from the recent Cabinet Report PL18 088 / KD4792 approving the initiation of a Corporate Property Investment Programme (CPIP) for the Council, which gave delegated authority to the Executive Director for Place in consultation with Director of Finance to make this decision.
- 1.4. As part of this, this report seeks authority for pre-construction expenditure, appointment of consultants, submission of a Planning application and for officers to procure the Construction Works contract.
- 1.5. The proposed procurement strategy is for the technical design services to be delivered via the Corporate Maintenance & Construction Team to appoint and manage consultants via a compliant Framework as necessary.
- 1.6. A further report will be submitted for Authority to Award the Construction Works contract.

2. RECOMMENDATIONS

- 2.1. To approve pre-construction expenditure up to £300,000; as set out in Part 2 of this Report and note that the expenditure will be funded from the Council's Capital Programme as agreed at the Capital Finance Board on 28/11/18 and Cabinet on 23/01/19 (PL18 088 / KD4792).
- 2.2. To approve the appointment of consultants via a compliant Framework; as set out in Part 2 of this Report.
- 2.3. To approve the submission of a formal planning application if required.
- 2.4. To approve the procurement strategy set out below and in the Design & Procurement Programme Rev1 (see Appendix 1).
- 2.5. To note that a further report will be submitted for Authority to Award the Construction Works contract and the balance of expenditure.

3. BACKGROUND

- 3.1 In January 2019, Cabinet and Council approved the initiation of the Council's Corporate Property Investment Programme (CPIP). The cabinet report set out proposals for early projects to address urgent needs, whilst the Strategic Asset Management Plan and longer-term CPIP come to fruition.
- 3.2 This report relates to one of the initial CPIP projects - to relocate the Integrated Learning Disabilities Services (ILDS) from St Andrews Court (SAC) to a significantly modified EHCB.
- 3.3 Property Services are in the process of extending the lease at SAC in order to provide the necessary amount of time to carry out extensive redesign and alterations to EHCB. In order to minimise the length of time occupying SAC and thereby reducing the payment of an inflated rent, it is necessary to complete the delivery of the redesign and refurbishment of EHCB and relocation of services by December 2020, which is a challenging timescale.
- 3.4 The procurement strategy for the EHCB will be that the technical design services will be managed by in-house technical services, Corporate Maintenance & Construction Team (CMCT) utilising consultants via compliant Frameworks for full multidisciplinary services and a separate appointment for cost consultancy. The Works Contract will be a single stage procurement, competitively tendered to include local SME contractors; a further report will be submitted for Authority to Award the Construction Works contract. This approach was agreed at the Procurement & Commissioning board on 12/03/19. The procurement strategy is also set out in the Design & Procurement Programme Rev1 (see Appendix 1).

- 3.5 Officers will consult with the Planning Authority to determine whether a formal planning application is required for these works. The in-house Building Control team will be used for Building Regulations approval.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The professional services required cannot be provided in-house as there is currently insufficient capacity within the Property & Economy Department.
- 4.2 The professional services required could be procured via other frameworks or through competitive tendering, using a pre-vetted list of consultants, but neither of these options enable speedy direct call off. Conducting either mini-competition through a framework or a tender exercise would add time and potential delay and not deliver the early engagement required to deliver this project.
- 4.3 The Construction works could be procured via frameworks, however, conducting either mini-competition through a framework or meeting prescriptive framework procedures would add time and potential delay. If a typical framework two stage tender process was adopted, the Council would also have reduced leverage on price and would not be certain that the best price in the market had been obtained.

5. REASONS FOR RECOMMENDATIONS

5.1 Professional Services

- 5.1.1 Direct call off Frameworks provide an immediate flexible resource to deliver the Professional Services required. The hourly rates have been benchmarked and the target hours have been agreed based on benchmarked consultants' fee rates.
- 5.1.3 Other Specialist Consultants and Surveys may be procured separately, as necessary, in compliance with Contract procedure Rules.

5.2 Works

- 5.2.1 The key drivers for the procurement strategy are time and cost, specifically, the requirement for the service to be relocated within 18 months of the lease renewal at St Andrew Court to avoid further rental charges. The construction costs also must be delivered within the budget approved. In response to this, the proposal is for the works to be de-risked and specified in sufficient detail to competitively tender the works and obtain the best price from the market.
- 5.2.2 The proposed procurement strategy is also set out on the current Design & Procurement Programme Rev0 (see Appendix 1). The Construction contract will be tendered in accordance with Contract Procedure Rules; the terms & conditions will be JCT Intermediate Form of Contract with Contractors Design 2016 edition.

6. COMMENTS FROM OTHER DEPARTMENTS

6.1 Financial Implications

- 6.1.1 In January 2019, Cabinet and Council (report KD4792) approved initiation of the Council's Corporate Property Investment Programme (CPIP), including funding of £1,300,000 for this scheme.
- 6.1.2 The estimated costs to progress the scheme up to Authority to Award the Construction Works contract is £300,000. The estimated costs are planned for 2019/20 and are within the funding approved that financial year. Refer to Part 2 for the detailed breakdown of estimated costs to progress the scheme up to Authority to Award the Construction Works contract.
- 6.1.3 VAT incurred towards any procurement and resourcing required in order to deliver this scheme may be recovered under provisions of Section 33 of VAT Act 1994. The main conditions for VAT recovery require that the council contracts for the goods/services, receives the order, receives VAT invoices in its name and pays with its own funds.

6.2 Legal Implications

- 6.2.1 Section 111 of the Local Government Act 1972 ("LGA") gives a local authority power to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of any of its functions and the Localism Act 2011 provides the Council power to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. In addition, section 112 of the LGA permits the appointment of such officers that the Council deems necessary for the discharge of its functions. The proposals set out in this report are consistent with this power.
- 6.2.2 The contents of this report constitute a Key Decision as the recommendation to progress the pre-construction phase up to Authority to Award the Construction Works contract will lead to capital expenditure exceeding £250,000. This item has been included in the Key Decision List reference: KD4877. Once approved, the decision to proceed will be subject to the usual five-day call-in period.
- 6.2.3 Additionally, the Council is empowered, under s.1 Local Government (Contracts) Act 1997 to enter into contracts in order to discharge its legal powers.
- 6.2.4 The use of a compliant framework agreement is encouraged by the Council's Contract Procedure Rules ("CPRs"), CPR 4
- 6.2.5 The Council must comply with all requirements of its Constitution and CPRs. Where it demonstrates Best Value a legally compliant Framework should be used to procure the professional services. Due Diligence should be carried out on the Framework as the professional services are over the OJEU threshold of £181,302 for services.

- 6.2.6 Any call off from a Framework must be carried out strictly in compliance with the Framework terms and via the E-Tendering Portal (CPR 4.1.5)
- 6.2.7 The Call Off Contract for Professional Services will be in accordance with that in the Framework Agreement. Any other contracts required must be in a form approved by legal Services on behalf of the Director of Law and Governance ahead of contract commencement date.
- 6.2.8 It is noted that the procurement of the works contract is to be by single stage competitive tender and the terms are to be in the form of the JCT Intermediate Building Contract with Contractor's Design 2016 Edition.
- 6.2.9 If the contract value for the works is £1,000,000 or over sufficient security in the form of either a Parent Company Guarantee or a Performance Bond must be required to manage risk. Evidence of the form of security required or why no security was required must be stored and retained on the E-Tendering Portal for audit purposes (CPR 1.18)
- 6.2.10 In accordance with the provisions of the Town and Country Planning Act 1990, if the proposed works constitute 'development' as set out in s.55 of the act an application for planning consent will need to be submitted to the local planning authority.

6.3 Property Implications

- 6.3.1 This is a pilot CPIP project providing an immediate solution to the urgent issues relating to St. Andrew's Court and provide an appropriate use for the vacant Enfield Highway Carnegie Building. CPIP will be the ongoing programme that will deliver the construction outcomes of the emerging Strategic Property Framework and Strategic Asset Management Plan, which will be presented to Cabinet in Spring/Summer of 2019.
- 6.3.2 This report proposes the engagement of professional services, and so does not have direct property implications. The January 2019 Cabinet Report PL18 088 / KD4792 sets out the property implications associated with the project.
- 6.3.3 All new or revised asset data arising out of the proposed works must be sent by the Project Manager to Strategic Property Services for input onto the Asset Management Data System, ATRIUM, including revised site plans, floor plans, asset information and maintenance regimes.

6.4 Corporate Procurement Implications

- 6.4.1 All procurements of goods/services/works will be in accordance with the Councils Constitution, Contract Procedure Rules ("CPRs") and the Public Contracts Regulations 2015. In particular, the Council is able to utilise a range of EU compliant frameworks to engage the services of construction contractors or technical support staff such as architects or quantity surveyors in full compliance with the CPRs. Any use of a framework must be in accordance with the framework terms.

- 6.4.2 The proposed use of frameworks set out in Part 2 is compliant with the Council's Contract Procedure Rules.

7. KEY RISKS

- 7.1 The key risks identified at this stage are:

- 7.1.1 Delay to the programme: the impact will be a further 18 months inflated rental costs for the Council. This has been inherently mitigated by early engagement of technical consultants and close management of the programme activities.
- 7.1.2 Cost increase: the impact will be insufficient funding to meet the expenditure. This will be mitigated by rigorous Cost Planning from the outset and robust change control. The competitive tenders should provide the best price from the market, but inflation is currently very difficult to predict.
- 7.2 A detailed Risk Register must be maintained throughout the process to inform the project contingency and that alongside the Cost Plan will provide early warning of Cost increase.

8. INTERNAL DEPARTMENT IMPLICATIONS/CONSULTATION

9. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

9.1 Good homes in well-connected neighbourhoods

- 9.1.1 No implications

9.2 Sustain strong and healthy communities

- 9.2.1 Further improvement and investment in the EHCB will potentially provide greater opportunities for enhanced community use. The very nature of the services to be delivered from the project will continue to provide support and health facilities to some of Enfield's most vulnerable residents.

9.3 Build our local economy to create a thriving place

- 9.3.1 Utilising the currently vacant EHCB to deliver a busy customer service and office for 80+ staff will bring additional footfall to the area, supporting the local shops and businesses.
- 9.3.2 Providing a reasonable work environment for our staff will enable them to better deliver the essential services they provide to our customers. In turn this will enhance people's ability to reach their full potential by accessing opportunity and encouraging them to reach their potential

10. EQUALITIES IMPACT IMPLICATIONS

- 10.1 Local authorities have a responsibility to meet the Public Sector Duty of the Equality Act 2010. The Act gives people the right not to be treated less favourably because of any of the protected characteristics. We need to consider the needs of these diverse groups when designing and changing services or budgets So that our decisions it do not unduly or disproportionately affect access by some groups more than others.
- 10.2 Corporate advice has been sought regarding equalities and agreement has been reached that an equalities impact assessment will need to be carried out by the Project Leader and staff from the service centres as part of the full design phase of the pilot projects to ensure that the council meets its duties.

11. PERFORMANCE AND DATA IMPLICATIONS

- 11.1 No implications

12. HEALTH AND SAFETY IMPLICATIONS

- 12.1 The Construction (Design and Management) Regulations 2015 apply to this project and the Council will be deemed to be the “Client” and as such has a duty to appoint a “Principal Designer” and to appoint a “Principal Contractor”.

13. HR IMPLICATIONS

- 13.1 No implications

14. PUBLIC HEALTH IMPLICATIONS

- 14.1 No implications

Appendices:

Appendix 1 - Design & Procurement Programme Rev0 – March 2019

Background Papers

Cabinet Report PL18 088