

London Borough of Enfield

Operational Report

Report of **Joanne Drew**

Subject: Award of design and professional Consultancy
Contract Exeter Road

Executive Director Sarah Cary

Ward: Enfield Highway

Key Decision: KD 5310

Purpose of Report

1. This report seeks the approval for the award of the full design and consultancy services for RIBA stage 3-6 for the Phase 1 of the Exeter Road development to Levitt Bernstein Architects through the LHC framework for the value of £897,000.
2. Approval of this decision will allow progress on the delivery of the Exeter Road scheme, as part of the Council's Building Council Homes for Londoners programme.

Proposal

3. Approve the award of full design and consultancy services to Levitt Bernstein as Lead architects through a direct award using the LHC frameworks in the sum of £897,000. This award includes the sub-consultants and the necessary surveys, this will be commissioned by the lead architect for services related to the design development and due diligence to planning.

Reasons for Proposal

4. The Key decision 5286 authorised in February 2021 approved the overall capital investment for the Exeter road Phase 1 development and delegated authority to the Executive Director of Place, in consultation with Executive Director of Resources, to enter into development partnerships, award contracts for works and professional services and enter into or agreements for the acquisition or disposal of property for development schemes. The award of the consultancy contract is within this key decision.
5. The design and consultancy services being procured will cover the development of Phase 1 up to RIBA Stage 6. The development is part funded by the GLA's Building Council Homes for Londoners programme and the grant is conditioned on start on site by February 2022. This award is critical to the achievement of planning consent and contractor procurement necessary to meet the grant requirement.
6. The LHC framework is a Public Contracts Regulations 2015 compliant framework agreement. Procurement have confirmed that direct award is permissible with this framework and that the call off was carried out in accordance to its process.

Relevance to the Council's Plan

7. This contract will enable delivery on the priorities of the 2018-2022 Plan, "Creating a lifetime of opportunities in Enfield", by providing good homes in well-connected neighbourhoods.

Background

8. Levitt Bernstein Architects were previously procured to develop the feasibility studies for infill development on the estate.
9. The proposals, following the feasibility studies, are for 129 new infill and roof extension homes and improvements to the estate in 3 phases.
10. This award will enable the Council to submit a hybrid planning application by May of this year, with detailed for the first phase and outline for phases two and three. This will give the Council the opportunity to accelerate the development of phase 1 and start on site in 2021. This will ensure the Council is able to drawdown GLA funding by the Feb 2022 deadline. Not progressing the scheme would lead to slippage and risk of funding loss.

Main Considerations for the Council

11. Already agreed as part of the HRA 30-year Business Plan, the Exeter Road is a major scheme that delivers the objectives of The Housing and Growth Strategy 2020-2030 and Council's development delivery strategy milestones.
12. As shown in the following project plan, there is need to progress Phase 1 of development to maintain GLA funding.

Project Milestones	Deadline
Investment Decision DAR (implemented)	Mar 2021
Planning Submission	May 2021
Contractor Procurement (Issue ITT)	May 2021
Planning Consent	Aug 2021
Construction Contract Award DAR	Aug 2021
Contract Signed	Oct 2021
Start on Site & Grant Draw Down Deadline	Feb 2022

13. The fees for this service can be met within the £15m project allocated budget.

Options Considered

Do nothing

14. The Council will not be able to place the consultancy contract for this scheme.
15. It is vital that these homes are delivered to meet the GLA BCHL programme by March 2022.

16. The loss of this opportunity would otherwise not provide much needed council homes and reduce pressures on the council house waiting list and temporary accommodation budgets.

OJEU compliant open tender or mini competition through Framework

17. These options were considered however there would be a cost associated with procurement of a design practice, including extending the period for contracting. As Levitt Bernstein have experience of the sites, the complexities and have worked with our planning service, which would have been key deliverables in any tender process, the preferred route is a direct award. . The Lead Architect was also engaged through the Notting Hill Genesis framework on the earlier stages of the design.
18. Given the cost and time for a mini competition the priority is to achieve a start on site by February 2022 to drawdown the GLA funding. If this was not achieved or delivered within budget assumptions, this would make the scheme unviable and unable to progress

REASONS FOR RECOMMENDATIONS

19. Levitt Bernstein were appointed for the Enfield Architecture and Design Services Framework, through a mini-competition in 2016. Initial feasibility for Exeter Road commenced as part of a package of sites with formal appointment to recommence as part of the housing development programme via an agreed procurement route. As the Enfield Framework has now expired the Council is seeking to regularise all appointments by using an alternative framework. The rationale for seeking to award through a direct award to Levitt Bernstein is the demonstrable experience in working with the Council, their ability to adapt to the planning requirements and production of design and efficiency of outputs within budget.
20. It is proposed to call off Levitt Bernstein from the LHC Architect Design Services framework. The framework permits direct call-off and the Council has followed their prescribed steps. Value for money was assessed using the cost plan produced by the Quantity Surveyor and by comparing the LHC framework rates with that of the Nottinghill Genesis framework. The cost plan confirmed that Levitt Bernstein's framework rate was within 8-10% of construction costs, which is the industry standard of the percentage of fees required for this type of development. Likewise, in comparison to commission rates of the Nottinghill Genesis framework, their rate is competitive:

Comparison LHC and Notting Hill Architectural Fees			
Fee Stages	Notting Hill	LHC	Variance
Stage 1	£87,930.00	£81,090.00	£6,840.00
Stage 2	£140,100.00	£129,300.00	£10,800.00
Stage 3	£126,420.00	£110,250.00	£16,170.00
Stage 4	£120,400.00	£105,000.00	£15,400.00

21. The design development and construction will provide up to 50 homes for Enfield residents. Levitt Bernstein have developed the wider masterplan and have a broad experience of working on Enfield-led sites since 2017, when they were at that point commissioned to develop feasibility studies across a number of sites which would eventually go on to be delivered.

22. Having worked on the design and feasibility since inception of Exeter Road, they have significant knowledge of the scheme and have a good track record of project delivery. Moreover, a competitive process would not necessarily result in a lower fee but would delay planning submission and risk loss of GLA subsidy due failure to start on site by February 2022.
23. This proposal contributes to the affordable homes' targets identified in the GLA BCHL programme.
24. Based on the above, the value of the direct award is competitive against market rates and provides good value for money, particularly considering the timescales to achieve the drawdown of grant and development programme.

Risks that may arise if the proposed decision and related work is not taken

25. The key risk would be the missed opportunity to develop additional affordable rented homes that are within the Council's financial parameters.
26. A delay to decision making could also result in delay to start on site and risk of loss of GLA funding.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

Risks	Likelihood & Impact	Mitigation
Consultant unable to meet project deadlines resulting in delay to start on site	M	Regular project and assurance meetings with delivery plan reviewed and adjusted to ensure targets are met
Design is not planning compliant resulting in planning refusal and delay to start on site	M	Design/compliance tracker put in place to ensure overall compliance and agree robust justification for non-compliance
Design does not meet grant conditions resulting in serious compliance breach and loss of grant	L	Design/compliance tracker put in place to ensure overall compliance and agree robust justification for non-compliance
Contractor unable to build design resulting delay to start on site, delays to completion or increased project costs	L	Design review with Employers Agent and design team to ensure buildability

Safeguarding Implications

27. N/A

Public Health Implications

28. Building council and affordable housing will work towards alleviating the increasing number of residents that are homeless, rough sleeping or in insecure, poor quality housing which will have a positive impact on public health.

Equalities Impact of the Proposal

29. Although there is no requirement to complete an EQIA on the procurement of this contract, we have had due regard to the requirements of the Public Sector Equality Duty
 - a. Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act
 - b. Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it
 - c. Foster good relations between people who share a relevant protected characteristic and those who do not share it
30. We are satisfied that the chosen supplier has an equality policy in relation to employment and will help the council meet its equality duties.
31. The supplier will promote equal opportunities in the employment of staff working on the contract.
32. Public-Sector Equality Duty will be considered in the design brief, this would involve consultation with residents affected by the scheme
33. An EQIA will be completed at relevant points in the development of the scheme.

Environmental and Climate Change Considerations

34. The services being procured will support the design and delivery of a scheme in line with London Plan requirements and so demonstrate that proposed climate change mitigation measures comply with London Plan energy policies, including the energy hierarchy. It will also ensure energy remains an integral part of the development's design and evolution.
35. The services being procured will also support the demonstration of how the zero-carbon target for residential developments will be met, with at least a 35% on-site reduction beyond Part L 2013 and proposals for making up the shortfall to achieve zero carbon, where required.

Financial Implications

36. In March 2021, KD5286 approved a £15m budget for the development of 50 units at Exeter Road. This report is to approve the award of contract and spend for full design and consultancy for this project, at a cost of £897k.
37. Within the £15m approved budget, £1.5m was allocated for on costs. The budget request of £897k included within the report will be funded from the approved on-costs budget.
38. These costs are included within the HRA 30-year approved business plan.

Legal Implications

39. The Council has a strategy to deliver more and better homes to address inequality and to help local people to access good homes. Section 111 of the Local Government Act 1972 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.
40. In addition, the Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals generally may do, provided it is not prohibited by legislation and subject to Public Law principles. Pursuant to section 8 of the Housing Act 1985, the Council is required to consider the housing conditions and needs of their area with respect to the provision of further housing accommodation. The Council has the power under section 9 of that Act to provide housing accommodation and under s17 of that Act to acquire land for housing purposes. Furthermore Section 91- 92 of the Housing Act 1957, gives powers to local Authorities to periodically review housing conditions and for the provision of new houses. The recommendations within this Report are in accordance with these powers and will enable the Council to fulfil its strategy under the Housing and Growth Strategy 2020-2030.
41. The procurement will need to be in accordance with the Public Contracts Regulations 2015 (PCR 2015) and the Council's Contract Procedure Rules (CPR). CPR 14.4 states that Frameworks, where they exist, should be used provided Best Value can be demonstrated and managers are required to retain sufficient evidence to demonstrate compliance. Calling off from Frameworks is further permitted under regulation 33 of the PCR 2015. The contract award must be in accordance with the process set out in the LHC Framework Agreement.
42. The form of contract will need to be approved by the Director of Law and Governance. Officers should be mindful of the following:
 - i. Given that the value of the contract is above £500,000, sufficient security (in the form of a bond or parent company guarantee or one of the forms set out in CPR 7.3) from Levitt Bernstein should be considered 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.
 - ii. The Service Department must undertake a risk assessment to ensure that the levels of insurance are adequate seeking advice from the Council's Insurance team.
 - iii. The contract must be executed under seal to comply with the CPRs.
43. The Council must ensure value for money in accordance with the Local Government Act 1999 and the CPRs.
44. The contract award will be a Key Decision and, as such, will need to comply with the Council's governance process for Key Decisions.

Workforce Implications

45. This Operational DAR seeks approval to award the full design and consultancy service on the project to named Lead architects. This includes the commissioning of services related to the design development, due diligence to planning, necessary surveys and any required sub-consultants.
46. Based on this there are no identifiable workforce implications such as additional or diminished resource, potential TUPE obligations etc.

Property Implications

47. HRA property implications: These are throughout the report.

48. Corporate property implications: none.

Procurement implications

49. Due diligence has been carried out by Procurement Services on the LHC Architect Design Services (ADS1.1) Framework Agreement (LHC Reference DN505616). The call off has been carried out in accordance with the framework process. A direct award is permissible with this framework.
50. The Procurement approach was approved on 12/02/2021 in accordance with the protocols agreed by the Place Departmental Procurement Board.
51. The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the London Tenders Portal (LBE reference DN529175) including future management of the contract.
52. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.
53. In line with CPR's all contracts over £100,000 must have a nominated contract owner in the London Tenders Portal, and over £500,000 must show evidence of regular contract management and monitoring of KPI's.

Other Implications

54. N/A

Conclusions

55. This decision will provide the architectural services that will contribute to a transformation of an area that is currently blighted with anti-social behaviour and an unappealing public realm while delivering much needed affordable homes.

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