

Please note Part 2 report is now confidential appendix.

London Borough of Enfield

Operational Report

Report of **Joanne Drew**

Subject: **The Appointment of Legal Services for the delivery of Joyce and Snell's via the CCS Framework**

Executive Director: **Joanne Drew (Acting)**

Ward **Upper Edmonton**

Key Decision: **KD 5452**

Purpose of Report

1. To seek approval to award the Legal Services contract to support the delivery of the Joyce Avenue and Snell's Park regeneration for a contract term of two years to September 2024.

Proposal(s)

2. To approve the appointment of Bidder A to provide legal services to support development at Joyce and Snell's for a term to 29 September 2024. There is no option to extend beyond this point under the framework term, and if necessary further procurement will take place for the period following 29 September 2024. The services will support ongoing workstreams at Joyce & Snell's including in respect of proposed Compulsory Purchase Order/s.
3. To authorise expenditure for the scope of services set out within the body of this report.

Reason for Proposal(s)

4. The Council has undertaken a procurement exercise and is seeking to appoint legal advisors to support, advise and manage the delivery of various workstreams related to the proposed regeneration at Joyce & Snell's. The following legal specialisms are required under this contract:

- Property
- Commercial and procurement
- Construction
- State aid
- Planning
- Compulsory Purchase Orders

5. The contract value is within approved budgets for the project. Additionally, the appointment of a highly experienced and specialise Legal Services team to manage multiple complex workstreams will reduce pressures on existing council resources, assist to evaluate project and legal risks and their interdependencies simultaneously. This will reduce the Council's exposure to related legal and commercial risks.

Relevance to the Council's Plan

6. Joyce and Snell's is a key component in contributing to the vision, aims and priorities of the Council's Corporate Plan.
 - *Good Homes in well-connected neighbourhoods:* Joyce & Snell's will contribute to the Council continuing its pioneering approach to regeneration to create thriving, affordable neighbourhoods and places, and increasing the supply of affordable, quality housing options for ownership, social rent and private rent.
 - *Safe, healthy and confident communities:* Joyce & Snell's aims to deliver on the Council's aims to improve public health and people's well-being. Along with new homes Joyce & Snell's will deliver community and social infrastructure; new amenity spaces and open up access to Fore Street and the community to the west including North Middlesex University Hospital
 - *An economy that works for everyone:* Joyce & Snell's will deliver new commercial premises and workspace. The appointment of the Legal Services Team will contribute to achieve a higher number of Social Value outcomes, including educational programmes and training opportunities.

Background

7. Cabinet authorised (KD5343) the Joyce and Snell's Ballot and Regeneration proposals in September 2021, approving budget for ongoing professional fees (including the proposed fees for external legal services), buybacks and constructions costs for the detailed element of the scheme.
8. Grant funding for the first four phases was approved in principle through a successful bid with the GLA under the Homes for Londoners – Affordable Homes Programme 2021-26 in the sum of £54.4m subject to ballot, planning and contract. This was a major step towards securing the financing of the project and has positively raised the profile of the scheme within the GLA.

Scope of Services

9. To support the delivery of the regeneration scheme over the next two years, the Council is seeking to appoint an external legal advisor to assist in a range of legal services as follows:
 - Advising the Council in relation to any compulsory purchase of land, including conveyancing support for leaseholder buybacks.

- Assisting the Council with the procurement of developers, contractors and advisors as may be required in connection with the scheme
- Liaising and assisting the Council to deliver ancillary contracts with Network Rail and other statutory agencies.
- Planning, tax and state aid advice as required in relation to the Project

Procurement Process

10. The Legal Services have been procured under the Crown Commercial Service Legal Framework (CCS).
11. In determining which framework to use for this procurement, a key factor was to ensure that the firms on the framework were specialists in Property, Planning and Construction Law which forms the majority of the work required under this contract. Having considered different frameworks, the CCS Legal Framework was selected in consultation with colleagues in procurement and legal teams. This framework was preferred due to the high quality of practices on the framework, concise selection process and contract documents.
12. In accordance with the framework requirements, nine suppliers were invited to tender, and all bidders were contacted beforehand by the Procurement Team to confirm their interest in bidding. The full list of firms invited to tender is contained in Confidential Part 2 of this report.
13. The invitation to tender was issued on 4th May 2022. Three suppliers provided valid ITT submissions through the London Tender Portal on 1st June 2022.
14. As part of the evaluation process the Council assessed the economic and financial standing of the winning bidder. The evaluation was carried out by the Finance Team through Equifax and bidder A was assessed as Grade A+.
15. The evaluation of the proposals for this commission were based on 70% quality (including 10% Social Value) and 30% price. The outcome is explained in Confidential Part 2.

Main Considerations for the Council

Delivering Joyce & Snell's

16. The Council is acting as Master Developer to realise the comprehensive redevelopment at Joyce & Snell's by securing a hybrid planning permission, and appointing a Principal Contractor for the detailed element of the scheme which covers the first four phases.
17. Leading a technical consultant team, the Council has acted a master developer in progressing the scheme so far, including consulting with residents, stakeholders and planners to develop a scheme that meets the aspirations for existing and future residents.
18. The Council expects an excellent standard of delivery, ensuring that quality services are delivered efficiently and effectively whilst providing value for

money. Bidder A have demonstrated a good and clear system on how they will deliver efficient and effective services to achieve the Council's requirements, setting out processes to minimise unnecessary legal costs.

19. Joyce & Snell's is an ambitious and complex development project and Bidder A has addressed its legal requirements by bringing together an experienced team that comprises specialists in Property, Construction, Contract and Public law. This team gives the Council assurance that they will obtain the advice required on matters related to Development Contracts, Property Agreements, Planning Agreements and the procurement of Main Contractors, among other services.
20. Bidder A has been subject to a fair and rigorous evaluation process considering their ability to provide Legal services on Joyce & Snell's. Taking into account the different technical, commercial and Social Value considerations it is the view of the panel of moderators that Bidder A should be appointed to provide Legal services for Joyce & Snell's.

Benefits to Joyce & Snell's

21. Bringing on board Bidder A as external legal advisers will be of direct benefit to the delivery of Joyce & Snell's. They will bring knowledge and expertise acquired from other projects delivered in both the public and the private sector, reducing the legal and financial risks taken by the Council.
22. Bidder A will facilitate knowledge transfer to the Council's legal team and project team throughout the duration of the contract, improving in-house skills and resource embedded at the Council through for example:
 - Free in-house training for LBE officers on a range of topics including the Housing Act, CPO and construction law
 - Project extranet for all document management relating to the different workstreams

Benefits to Council Residents

23. A key driver for the project is the delivery of new homes and amenities within the borough. Appointing an external consultancy to provide Legal services will enable this delivery. It would not have been feasible to deliver a scheme of this scale exclusively through the Council's legal team due to the range of skills and level of resources required.
24. Bidder A has provided a robust social value proposal, supporting different initiatives to benefit residents of the borough, amongst them the provision of two full time employments and paid work experience placements to six students from low-income families.
25. Bidder A have also committed to provide support to help unemployed people into work by providing career mentoring, local school and college career talks and expert legal advice to Voluntary Community and Social Enterprises (VCSEs) and SMEs.

Safeguarding Implications

26. The recommendations in this report do not have any safeguarding implications

Public Health Implications

27. The appointment of a Legal Services team does not have any public health implications.
28. Climate change has been described as the greatest threat to public health in the 21st Century. With that in mind, Joyce & Snell's is committed to zero-carbon construction, renewable and sustainable resources and to generate more energy than it uses. This is in line with Enfield Council's pledge to become a carbon neutral local authority by 2030. The appointment of a legal services team will not affect the environmental impact, and merely assist in delivering the development.

Equalities Impact of the Proposal

29. The Council has a duty to promote equality, diversity and inclusion, and it recognises the issue of diversity specifically within the construction sector.
30. The bidders' approach to Social Value and Equality, Diversity & Inclusion has been assessed as part of the tender process. Within their submissions, bidders were asked to submit responses to the Council's TOMS through the Social Value Portal and commit to ongoing monitoring and delivery of the stated benefits.
31. The tenders submitted in response to the Council's ITT were evaluated against price (30%) and quality (70%). 10% of the total score was attributed to Social Value and Equality, Diversity & Inclusion.
32. Social Value and EDI are a major focus for Bidder A and the Social Value indicators they have committed to within the Social Value Portal (SVP) reflect this commitment to the London Borough of Enfield.
33. It has been concluded that an Equalities Impact Assessment (EQIA) was not necessary in this instance due to the nature of the contract and the fact that Social Value and EDI of the proposals were assessed as part of the procurement process.

Environmental and Climate Change Considerations

34. The Council has a goal to become carbon neutral by 2030 and in July 2018 the Cabinet declared a climate emergency. Joyce & Snell's must seek to use zero-carbon construction, renewable and sustainable resources, generate on-site energy, foster active travel and support low-carbon communities.
35. Whilst the appointment of Legal Services does not have any direct environmental impact and climate change considerations, the appointment of

the legal advisor will support the delivery of the project and ensure climate commitments are met through development contracts. It is also expected that companies appointed by the Council to undertake services must also have sustainable energy policies to reduce their carbon footprint.

36. Bidder A has committed publicly to reducing their carbon emissions through changes to their offices, sustainable energy, flexible working and sustainable travel strategies to achieve a verified global net zero by 2040.
37. A link to Bidder A's sustainability commitments within their website is contained in Part 2 of this report.

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

38. The appointment of an experienced and capable Legal Services consultancy to support the different workstreams at Joyce & Snell's will reduce the risk to the Council of non-delivery, cost exposure, programme slippage, reputation in the market and poor agreements with partners. Not appointing the Legal Services consultancy will increase these risks.

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

39. The key risk in appointing Legal Services is that Bidder A does not deliver the services required by the contract to a suitable standard, within the project timelines and on budget.
40. Working with LBE's Legal and Finance Team, the designated Joyce & Snell's team member will monitor the Legal Services contract closely.
41. The services will be reviewed according to the KPI included within the ITT.

Financial Implications

42. See Part 2

Legal Implications

43. MD 11 August 2022
44. Section 111 of the Local Government Act 1972 permits local authorities to do anything that is calculated to facilitate, or is conducive or incidental to, the discharge of their functions. The Council also has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles. The Council therefore has sufficient powers to enter into the contract as proposed in this report.
45. The estimated value of the contract is above the Public Contracts Regulations 2015 (the "Regulations") threshold. The procurement of legal

services must therefore comply with the Regulations as well as the Council's constitution, including the Contract Procedure Rules. Both permit the Council to call-off from an existing framework if the framework terms permit. The resulting call-off contract is based on the framework terms and officers have ensured that the rules of the framework have been followed. This report describes the competitive process used to select Bidder A.

46. The Council will be under no obligation to issue instructions to Bidder A for Legal Services. Any instruction made should first be approved by Legal Services, having regard to the Council's obligation to ensure value for money.
47. The Contract Procedure Rules require that, where the anticipated value of the contract exceeds £1,000,000 the supplier must provide sufficient security. Where the supplier cannot provide security or it is decided to accept the level of risk, then the Executive Director of Resources must approve the financial risk prior to entry into the contract. The Executive Director of Resources must also approve any limitations on liability set out in the contract.
48. A budget for professional fees in the sum of £10m to was agreed at Cabinet in September 2021 (KD 5343) to ensure there were sufficient budget to promote the scheme through planning and to ensure the first four detailed phases get on to site and completed in line with the J&S development programme. Within this budget are sufficient legal fees in order to progress the regeneration that can be spent either with LBE Legal Services, through external advisors or a combination of both.
49. The external legal firm will be instructed on a case by case basis by LBE Legal Services to undertake workstreams as and when required. The contract requires for monthly contract monitoring meetings and monitoring of set KPIs.
50. The form of contract has been approved by Legal Services on behalf of the Director of Law and Governance. The contract must be executed under seal, registered on the Corporate Contract Registered and the E-Tenders portal.
51. The anticipated contract value exceeds £500,000. Therefore, this is a Key Decision, and the Council must comply with its Key Decision procedure

Workforce Implications

57. There are no workforce implication arising directly from this report.

Property Implications

52. The appointment of the external legal firm will support the Council's internal legal team in their continued provision of advice and assistance in relation to the Joyce & Snells team. The external provider will only be instructed to undertake work if agreed by Legal Services (e.g. in circumstances where there is insufficient resource or expertise in house).

Other Implications

Procurement Implications

53. The procurement was undertaken using the E-Tendering Portal (ref DN605724) in accordance with the Councils Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015).
54. The tender was issued on 24th May 2022 to 9 bidders and three tenders were received on 1st June 2022. The evaluation was carried out by a carefully selected panel. Moderation meetings were held week commencing 22 June 2022. Procurement Services were involved in the procurement and the process was carried out fairly and transparently.
55. In accordance with the CPRs the Supplier must be required to provide sufficient security. 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.
56. A contract of this size must have a proper contract management schedule and measurable KPI's. This is to ensure that the contract is delivered and value for money is maintained. 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 E-Tendering Portal including future management of the contract.
57. In accordance with the Councils CPR's the service must ensure that a Contract Manager is nominated and allocated to the procurement once uploaded onto the E-Tendering Portal, and that the monitoring requirements are adhered to. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

Options Considered

64. The use of the Council's in-house Legal Team has been discounted as a viable option as there is not the specialism and resources to deliver internally.

Conclusions

65. It is considered that appointment of Bidder A has offered the most economically advantageous tender with regard to quality, pricing and social value criteria.
66. It is considered that their appointment enables the successful and timely delivery of the Joyce and Snell's project and should be authorised.

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Appendices:

Appendix A: Invitation to Tender Questions