

Report of : Head of Property Services

Report to : Chief Planning Officer

Date: 23 April 2014

Subject: Waiver of Contract Procedure Rules-Strategic Housing Land Availability Assessment (SHLAA) Viability-Appointment of Contractor

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:	10.4(3)	
Appendix number:	1	

Summary of main issues

1. Local authorities including Leeds City Council are expected to prepare Strategic Housing Land Availability Assessments (SHLAA) to establish realistic assumptions about the availability, suitability and the likely economic viability of developing land for housing across their areas. The background to this is contained in the NPPF and NPPG (November 2013).
2. Leeds City Council is preparing the 2013 update to its SHLAA. In particular, the 2013 update is making a thorough re-assessment of those sites recorded in the 2012 SHLAA update with deliverability of sites in the first 5 years.
3. It is proposed that the District Valuer at the Valuation Office Agency be appointed to undertake the work by making a Direct Award to them to undertake the work.
4. The work required is proposed in three stages as follows:
 - 4.1 An initial stage(stage 1- part A) confirming a housing market overview
 - 4.2 Initial discussions with the District Valuer of 30 possible sites comprising an initial sift to establish and agree 15 sites for detailed viability analysis.(stage one-part B).

- 4.3 Stage Two-undertaking the viability analysis of the initial 15 sites .
- 4.4 Stage Three-viability appraisal of further sites (possibly 15) for further consideration at a later stage.
5. The outcome is intended to be used to support the Council's position at an appeal in May 2014 supporting a Direct Award to the District Valuer in Leeds who provides a specialist service undertaking housing development viability across the north of England.

Contract procedure rules dictate that such work should be tendered to at least three suitably qualified parties, unless the proposed fee is below a defined level. In this case timescales are such that a contract needs to be placed immediately with a qualified party capable of undertaking the work at short notice who are experienced at undertaking the work. The appointment of a specialist working exclusively in this area across the north of England to public sector clients alone will add value to the work and it is therefore proposed and recommended that contract procedure rules are invoked to allow the appointment of one party without tendering.

Recommendations

6. It is recommended that the Chief Planning Officer invokes rule 11.2 to waive Contract Procedure Rules to permit the direct appointment of the District Valuer to undertake viability analysis on the basis indicated in the report and accompanying confidential appendix without tendering at a fee above the normal £10,000.

1 Purpose of this report

- 1.1 The purpose of this report is to seek approval to procure the services of the District Valuer to undertake the viability analysis required in order to comply with Council contract procurement rules in the case of placing contracts with a value of £10,000 or more.

2 Background information

- 2.1 The assessment will form a key component of the evidence base concerning housing land supply in Leeds, with reporting and analysis being sufficiently robust to withstand examination in a judicial setting. The viability assessment of sites needs to follow an accepted conventional approach using financial appraisal modelling based on residual valuation methodology and any appropriate national guidance. A level of detail found in the Argus Appraisal package or the HCA Development Appraisal toolkit or some similar equivalent residual valuation approach, compliant with the RICS guidance contained in their "Financial Viability In Planning" (July 2012) is to be provided.
- 2.2 Viability is to be considered over the period 2013/14 to 2018/19.

The four main areas of works are detailed as follows:

Stage One Part A: Confirming the market overview as informed by i) the Economic Viability Assessment (DTZ 2010), the Economic Viability Study (GVA 2012) and the Leeds Residential Supply Analysis report (Jones Lang LaSalle 2013).

Stage One Part B: discussion with LCC officers on 30 possible sites to agree 15 for viability appraisal. This will be informed by market information assembled by LCC

including a report on viability for CIL and a report on the Leeds housing market as well as general knowledge of the strength of local housing markets in Leeds held by the consultant. The choice of sites will also be informed by early feedback from house builder representatives on the SHLAA Partnership about viability of sites and by the need to avoid conflicts of interest with the consultant undertaking this work.

Stage Two: undertaking viability appraisal of 15 sites.

Stage Three: by way of a potential second separate instruction appraise the viability of sites where LCC and house builder representatives on the SHLAA Partnership disagree on viability to deliver in the period 2014/15 to 2018/19. The quantity of sites is likely to be around 15 located in the same geographical areas as the sites in Stage 2, but the sites will not be confirmed until May 2014.

3 Main issues

- 3.1 City Council Contract Procurement rules require that where the value of the proposed contract exceeds £10,000 plus VAT Chief Officer approval is required to procure the work. It is now intended to seek that the authority to instruct the District Valuer to undertake the work required.
- 3.2 The Council is satisfied that the work can be undertaken by the District Valuer, at a reasonable and competitive rate, to the required specification and within the tight timescales required.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 No consultation has been undertaken with key stakeholders. Consultation in this case is not required. The Chief Planning Officer has delegated authority to make such an appointment following the invocation of Contract Procedure Rule 11.2 based on the reasons detailed in this report.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no equality and diversity issues arising from the proposal.

4.3 Council Policies and City Priorities

- 4.3.1 Local authorities including Leeds City Council are expected to prepare Strategic Housing Land Availability Assessments (SHLAA) to establish realistic assumptions about the availability, suitability and the likely economic viability of developing land for housing across their areas. The background to this is contained in the NPPF and NPPG (November 2013).
- 4.3.2 Leeds City Council is preparing the 2013 update to its SHLAA. In particular, the 2013 update is making a thorough re-assessment of those sites recorded in the 2012 SHLAA update with deliverability of sites in the first 5 years.
- 4.3.3 The work proposed is critical to this proposal.

4.4 Resources and Value for Money

- 4.4.1 The District Valuers fee is detailed in the confidential appendix. Where the District Valuer has been appointed to undertake site viability analysis on an individual site

basis fee quotes achieved through previous competitive tendering have led to individual job charges in the range indicated in the confidential appendix. On this basis the collective quote for the 15 viability appraisals to be undertaken, to the same specification, is considered to be very reasonable. Their specialist knowledge is considered to add value and their role as a service provider to the public sector only obviates the need for conflict of interest checks on the initial 15 sites and subsequent instructions relating to the further sites which may delay fee quotation and/or capacity to act from another consultant. This saves time and ensures a consistent approach by employing one consultant to undertake all of the work.

4.4.2 The City Council is satisfied that the fee proposed is competitive and value for money that the District Valuer is satisfactorily qualified to undertake the work to the prescribed standard and is positioned to be able to act without possible conflicts of interest.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The Council's Procurement Governance & Regulation Manager Public Private Partnership Unit and Procurement Unit have confirmed that the Council can make a direct award but that a waiver to Contract Procedure Rules is required to be approved by the Chief Officer.

4.5.2 The information contained in the appendix and the schedule attached to this report relates to the financial or business affairs of a particular person, and of the Council. This information is not publicly available from the statutory registers of information kept in respect of certain companies and charities. It is considered in these circumstances that it is not in the public interest to disclose this information at this point in time as this could lead to random competing bids which would undermine this method of inviting fees. It is also considered that the release of such information would or would be likely to prejudice the Council's commercial interests in relation to other similar transactions in that prospective suppliers of other similar services would have access to information about the nature and level of offers which may prove acceptable to the Council. It is therefore considered that this element of the report should be treated as exempt under Rule 10.4.3 of the Access to Information Procedure Rules.

4.6 Risk Management

4.6.1 There are no specific risks associated with the proposal.

5 Conclusions

5.1 It is concluded that the District Valuer should be appointed on the fee basis detailed in the confidential schedule.

6 Recommendations

6.1 It is recommended that the Chief Planning Officer invokes rule 11.2 to allow the waiver of Contract Procedure Rules to permit the direct appointment of the District Valuer to undertake viability analysis on the basis indicated in the report and accompanying confidential appendix without tendering at a fee above the normal £10,000.

7 Background documents¹

7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.