

**Report of Housing Growth Team**

**Report to Director of Resources & Housing**

**Date: 19 September 2017**

**Subject: Procurement of a Design and Build Contract via the YORbuild2 framework to deliver new build Council Housing at the Beeches (Gipton) and Nevilles (Osmondthorpe) sites.**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Gipton and Harehills, Temple Newsam		
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input 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: Appendix number:		
Appendix 1 to this report has been marked as exempt under Access to Information Procedure Rules 10.4 (3) on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council. The information is exempt if and for so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In this case the report author considers that it is in the public interest to maintain the exemption.		

**Summary of main issues**

1. This report seeks approval for the recommended procurement route to provide new build council housing on two sites in the Gipton area (the Beeches) and three sites in the Osmondthorpe area (the Nevilles). The sites form part of the Council Housing Growth Programme (CHGP) and will be procured together in one procurement exercise. It also seeks approval to delegate decision making authority to the Housing Growth Programme Manager for the initial selection tender stage to approve the shortlist of four bidders.
2. A contractor will be procured to design and build the housing through the YORbuild2 Framework using a two stage procurement process.
3. The Council House Growth programme has total funding available of £108.3m. Since the initial injection into the capital programme in 2013/14 the CHGP has gained authority to spend of £80.18m through various Executive Board reports and

delegated decisions by the Director of Resources and Housing. The current authority to spend on the new build and acquisition element of the programme is £54.2m which includes estimates for the new build on the Beeches and Nevilles.

## **Recommendations**

It is recommended that the Director of Resources and Housing:

1. Approves the decision to procure a contractor to design and build new build council housing on the Beeches and the Nevilles sites through a two stage procurement process using the YORbuild2 framework.
2. Delegates decision making authority to the Housing Growth Programme Manager for the initial selection stage to approve the shortlist of four bidders.

## 1 Purpose of this report

- 1.1 The purpose of this report is to seek approval for the procurement of a design and build contractor to deliver new build council housing on the Beeches and Nevilles sites. A two stage procurement process will be undertaken using the YORbuild2 framework.
- 1.2 In line with the Contract Procedure Rules (CPR) 3.1.8, a decision to undertake procurement should be undertaken at the point the procurement route is chosen. The approval of the Director of Resources and Housing is required to enable procurement to progress in line with the proposals set out within this report.

## 2 Background information

- 2.1 The Council House Growth programme has total funding available of £108.3m. Since the initial injection into the capital programme in 2013/14 the CHGP has gained authority to spend of £80.18m through various Executive Board reports and delegated decisions by the Director of Resources and Housing. The current authority to spend on the new build and acquisition element of the programme is £54.2m which includes estimates for the new build on the Beeches and Nevilles.
- 2.2 The Beeches forms part of a successful funding bid for a grant contribution from the Homes and Communities Agency's Affordable Homes Programme 2015-18.
- 2.3 The Beeches and Nevilles project is the seventh new build site to be developed under the Council Housing Growth Programme (CHGP). Three schemes (Railway Close, The Plantation and Wharfedale View) have been completed, and three schemes, Broadleas, The Garnets and Whinmoor) are currently on site. The YORbuild1 framework was used for all these procurements and has now been superseded by the YORbuild2 framework.
- 2.4 The Beeches is made up of two adjacent sites, Beech Walk and Beech Mount in Gipton. The scheme is expected to deliver 27 new homes across the two sites. The mix of properties is set out below.

Property Type	Number of units	Notes
4 bed house	2	M4(2) Accessible and Adaptable Dwelling - General Needs
3 bed house	8	M4(2) Accessible and Adaptable Dwelling - General Needs
2 bed house	7	M4(2) Accessible and Adaptable Dwelling - General Needs
2 bed bungalow	4	M4(2) Accessible and Adaptable Dwelling - General Needs
1 bed bungalow	4	M4(2) Accessible and Adaptable Dwelling - General Needs
3 bed bungalow	1	Wheelchair accessible dwelling – Building Regulations Part M M4(3)
4 bed house	1	Wheelchair accessible dwelling – Building Regulations Part M M4(3)
Total	27	

- 2.5 Each property will have parking and private gardens. Two of the properties will be designed and built to the Building Regulations Part M M4(3) (Wheelchair Accessible Dwellings) standard. These properties are being built for families with accessibility needs and are being designed so that specialist equipment can be easily be installed to suit the specific needs of the families who will be identified during the construction phase of the project.
- 2.6 The Nevilles is made up of three sites in Osmondthorpe. The scheme is expected to deliver 32 new homes across three sites. The mix of properties is set out below. Each property will have parking and private gardens.

Property Type	Number of units	Notes
3 bed house	19	M4(2) Accessible and Adaptable Dwelling - General Needs
2 bed house	5	M4(2) Accessible and Adaptable Dwelling - General Needs
2 bed bungalow	4	M4(2) Accessible and Adaptable Dwelling - General Needs
1 bed bungalow	4	M4(2) Accessible and Adaptable Dwelling - General Needs
Total	32	

- 2.7 Excellence and innovation are central to the council house growth programme. New council homes will be delivered to the Leeds Standard, which requires high quality homes to be designed to meet current and future demand and support the wellbeing of tenants through good use of space and energy efficient designs which reduce running costs for tenants.
- 2.8 The Housing Growth New build output specification, which incorporates the Leeds Standard, will be used. This has been developed to reflect lessons learned from the earlier schemes and has been updated to reflect changes to design standards. This specification will form part of the tender package and sets out the standards and quality requirements to be met by the successful contractor. The specification includes a requirement for the successful contractor to deliver grounds maintenance services for the communal grounds on the Beech Walk site during the 12 month defects liability period. This is to avoid any disputes with the contractor which could arise by another party maintaining their landscaping works.
- 2.9 NPS Leeds have been commissioned to provide technical advisory services throughout the procurement and contract management services during the construction period. NPS have supported in developing the output specification and tender documentation

### 3 Main issues

- 3.1 Housing Growth Procurement Strategy
- 3.1.1 A report outlining the procurement strategy for the Council House Growth Programme was approved by the Director of Environment and Housing (now Director of Resources and Housing) on 17 December 2014. This report outlined the intention to undertake a bespoke procurement exercise for the

Beeches to select a specialist housing provider and advised that this would be subject to a further report. The strategy for this scheme was based on the aspiration to deliver legacy/landmark schemes.

- 3.1.2 Following the approval of the procurement strategy, a market sounding exercise was developed to explore the market interest in the Beeches tender. The focus of this exercise was on contractors who specialised in sustainable construction.
- 3.1.3 The market sounding exercise was undertaken in September 2015. The results of this suggested that there was not sufficient interest from the specialist market to continue with the procurement route as planned. In light of the findings from the market sounding exercise, the project team explored alternative procurement options to deliver the objectives of the procurement strategy.
- 3.1.4 The three sites at the Nevilles were added to the Housing Growth programme and it was agreed to join these sites with the Beeches and deliver them through one procurement exercise using the YorBuild2 Framework. This will make the schemes more attractive to the construction market and will avoid two separate procurement processes being undertaken.
- 3.1.5 The YORbuild2 framework provides a procurement route for public sector bodies within the Yorkshire and Humber region. YORbuild2 is the Council's default framework for the new build construction work.
- 3.1.6 The framework has two specific new build housing lots which contain contractors who have been assessed on their ability and experience to deliver new build housing schemes and who have committed to adding value by delivering employment and skills outputs. Opportunities should be made available to regional contractors and supply chains.
- 3.1.7 A market sounding exercise was undertaken in July 2017 with contractors from Lot 7 of the framework (10+ units New Build Housing) to gauge interest in the scheme and obtain feedback on the project. Eight of the ten contractors on the lot expressed an interest in tendering and their feedback has been assessed and incorporated into the tender documents where appropriate.

## 3.2 Procurement Process

- 3.2.1 It is proposed to use a two stage procurement. A cost ceiling has been set and the Council has set out the required outputs and outcomes in the form of a project scope and specification. The specification details the minimum requirements in line with Leeds Standard but, in order to allow contractors to be innovative and deliver the project within the cost ceiling, it allows as much flexibility as possible.
- 3.2.2 Contractors will respond to the output specification by proposing designs and method statements. They will be required to submit a price which must meet or beat the cost ceiling. The cost ceiling has been set using historical costs and benchmarks.

- 3.2.3 Feasibility studies have been undertaken, but no design work has taken place which will enable the contractor and their design team to be engaged early in the design process.
- 3.2.4 Due to the level of work required for contractors to develop designs during the tender process, the eight interested contractors will be shortlisted to four to ensure that the opportunity remains attractive. This will be through an initial stage whereby bidders will submit a CV of their relevant works. The Council will invite the four bidders with the most suitable experience relevant to this scheme. The timescales for this stage have been kept to a minimum to enable a contractor to be selected as quickly as possible and so the Council's approval timescale is limited. It is requested that delegated decision making authority be given to the Housing Growth Programme Manager for this initial selection stage so that the shortlist can be approved within the timescales available.
- 3.2.5 The four bidders invited to tender will take part in the two stage tender process. Tenders will be evaluated against price and quality criteria (including their designs to RIBA Stage 2). A ratio of 60% price and 40% quality is proposed. If a bidder cannot meet the cost ceiling or any minimum quality thresholds, their bid will be disqualified.
- 3.2.6 The quality evaluation criteria have been developed by the Housing Growth Team and with colleagues in Housing Management, NPS and PPPU. Planning Services will be involved in the evaluation of designs. The quality evaluation criteria is based on the YORbuild2 standard format, questions have been customised and minimum thresholds will apply to key questions. Tenants will be given an opportunity to comment on sections of the bids through the Tenant Procurement Group. This group has been established for Housing Property & Contracts tenders and the membership is being extended to include tenants from the Gipton and Osmondthorpe areas. In accordance with CPRs, the evaluation criteria will be approved by the Director of Resources and Housing prior to going out to tender.
- 3.2.7 The tenders will be evaluated in accordance with the criteria and a Design Services Agreement (DSA) will be awarded to the successful contractor. The DSA will set the terms for the design development period until the contractor is ready to start on site and the construction contracts are signed.
- 3.2.8 Once the DSA is signed, the successful contractor will be able to invoice for design work carried out up to a maximum capped sum. The Council will not pay for design work undertaken by unsuccessful bidders. The price of the contract will not be permitted to increase during this stage, but the Council may permit a limited number of compensation events (which may lead to an increase in price) based on the NEC standard in the event that changes are required due to the discovery of additional site issues. The bidders will not have sufficient time and information to factor these matters into their Stage 2 designs and it is unrealistic and poor value for money to expect the market to take price risk on ground conditions that have not been fully investigated prior to finalisation of design and price.

- 3.2.9 The contractor will develop the design and submit the planning applications. The contractor will be responsible for consulting ward members and other stakeholders on their proposal. There will be one planning application for the Beeches and one for the Nevilles. Once planning approval has been granted and the detailed design has been developed, an NEC4 (Option A) construction contract will be awarded for each scheme and the contractor will construct them.
- 3.2.10 The Council will use a gateway approach to managing the design development period, with approvals taking place at key milestones. These key stages include planning submissions and the award of the construction contracts and will provide LCC with assurance that the contractor has met its requirements before moving to the next stage. The DSA will allow the Council to withhold payment of fees and/or terminate the DSA if the contractor's performance during this period is not satisfactory.
- 3.2.11 The indicative timescales for the procurement are below, improvements in the delivery timescales will be achieved where possible (and may be achieved if contractors submit building proposals using modern methods of construction).
- Shortlist Approved– September 2017
  - Invitation to tender issued – October 2017
  - Tender submission date – December 2017
  - Contractor Appointed – February 2018
  - Start on Site – November 2018
  - Scheme Completion – January 2020

### 3.3 Scheme costs

- 3.3.1 NPS's feasibility cost plan, based on their feasibility exercise and the detailed site investigations estimates that the construction cost of the scheme (contract value) will be £9,317,460 (Beeches £4,379,362, Nevilles £4,938,098). This is the cost ceiling that has been set. This value does not include any risk costs, contingencies or costs for technical advice from NPS. The Council retains a risk budget outside of the contract value to cover site and ground conditions that cannot be identified and costed at this stage.
- 3.3.2 The construction cost does not include the cost of specialist equipment required for the two wheelchair accessible dwellings as this is being funded by LCC Children's Services. At this point in time, it is not possible to estimate the impact on the contract value, as it will only become known when the tenants are identified during the construction period. This may be undertaken by the appointed contractor, and appropriate approvals will be sought when more detailed cost information is known.

- 3.3.3 Design fees will be paid to the successful contractor under the DSA on receipt of a validated planning submission and the contractor's performance will be managed by the gateway process mentioned above. The fees will be fixed as per the fees submitted by the bidder in their activity schedule in their tender submission.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 A communication strategy for the Council Housing Growth Programme has been developed which outlines the process for consulting and engaging with key stakeholders in relation to individual schemes and which will be applied to all the new build schemes delivered under the programme. People in neighbouring properties will be consulted appropriately as will other local residents/stakeholders through the life of the project.
- 4.1.2 To support the delivery of this scheme, the Housing Growth Team will engage with local members at the following points in the scheme development/ procurement process:
- Design Brief – Briefing on the design brief for the site and any constraints.
  - Design Development – Site specific briefings will be arranged with the contractor's architect upon appointment of the successful bidder and prior to planning submission.
  - Contract Award – Briefings will be held to inform local members about the decision.
  - Construction Phase – Local members will be informed of the start on site date and briefed on progress regularly throughout the construction phase.
- 4.1.3 Pre-planning meetings will be held with officers from Planning, Highways and building control prior to the submission of the planning application.
- 4.1.4 A local consultation event will be arranged prior to submission of the planning applications.
- 4.1.5 See item 3.2.6 above which sets out how tenants will be engaged in the procurement process. Opportunities for involving tenants and local tenant groups in the design development and detailed design process are being explored.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 An Equality, Diversity, Cohesion and Integration screening has been undertaken for the Council House Growth Programme and has determined that the proposals have a positive impact in terms of Equality and Diversity and that a full assessment is not required.
- 4.2.2 The screening document has been updated for this scheme and sets out how the requirements of certain groups have been considered in the specification. The updated screening document is attached.



### **4.3 Council policies and City Priorities**

- 4.3.1 The development of new council housing will address priorities within the City Priority Plan to provide additional affordable housing and to support housing growth.

### **4.4 Resources and value for money**

- 4.4.1 The current total funding available for the CHGP, is £108.3m. Overall authority to spend is £80.18m which includes estimates for the delivery of The Beeches and Nevilles schemes.
- 4.4.2 The programme and budget is managed through the Housing Growth Team in conjunction with Corporate Resources and Environment and Housing Finance Teams.

### **4.5 Revenue Effects**

- 4.5.1 There are no revenue implications associated with this report.

### **4.6 Legal Implications, Access to Information and Call In**

- 4.6.1 The legal and contractual obligations of the Council and bidders will be managed through the YORbuild 2 framework and a DSA that will be drafted by the PPPU commercial team. The legal and contractual implications of this project are set out throughout this report particularly in section 4.7 (risk management) below.

### **4.7 Risk Management**

- 4.7.1 A risk log for the programme is managed by the Council Housing Growth Programme Board and produced on a monthly basis.
- 4.7.2 Risks specific to this procurement route / scheme are as follows:
- 4.7.3 HCA funding has been allocated but the HCA deadline for start on site of Q1 2018 will not be met. Discussions are being held with the HCA to ensure this funding is secured.
- 4.7.4 The risk allocation to the contractor is managed under the terms of the NEC4 Engineering Construction (ECC) Contract Option A. Under this contract, the contractor may be entitled to compensation events, in the form of more time or a more money, under certain circumstances. There is a risk of compensation events in relation to site conditions. If ground conditions are discovered during construction that a survey could not have been expected to uncover or if there is an error in the survey data that the Council has commissioned that a reasonably experienced contractor would not have spotted, the Council will be responsible for the cost and any loss of time as a result of this. The Council has minimised this risk by undertaking a comprehensive set of site surveys which will be issued to contractors as part of the tender information.

- 4.7.5 There is a risk that a new substation is required on the Beech Walk site to cater for the increased demand that the development would bring. At this stage, Northern Power Grid have advised that a substation is not needed, but this position could change and will not be known until the contractor submits their application for the new connection. If the substation is required, the contractor would be responsible for liaising with Northern Power Grid and designing and building the substation, but the Council will be responsible for the cost. There is also a risk that additional work is required to excavate and remove contaminated ground and to remove the existing and unused sewer network. Costs for all these items have been included in the Council's risk sum which is outside of the cost ceiling.
- 4.7.6 The YORbuild2 framework does not specifically allow for the assessment of design during the tender process. The project team are proposing to test this aspect under "added value" as this is the bidders' opportunity to demonstrate how they will use market experience and innovation to deliver the scheme. This has been done on a number of YORbuild procurements without any issues being raised but there remains a risk that this is interpreted differently by others so there remains a small risk of challenge.
- 4.7.7 There is a risk that bidders cannot deliver the scheme to the cost ceiling. Contractors' responses to the market sounding suggest that this is low risk. The cost ceiling has been developed by NPS's QS team who have used recent Housing Growth and other relevant schemes to identify the costs. As described at section 3, a DSA will be put in place to govern the period between the selection of the contractor and entering into the design and build contracts. This will clearly set out the requirements of both parties, the circumstances when the contractor will be paid and the circumstances when the agreement may be terminated (including failure to meet the council's budget, design and programme requirements). If the agreement is terminated some form of re-procurement will be required which will have time and cost consequences. Both the DSA and the YORbuild2 framework will be used to find the most efficient route to delivery in these circumstances which will include options to award to the second placed bidder and to make a direct quality initiated appointment.
- 4.7.8 A lesson learned session was held on 25<sup>th</sup> October 2016 for the Broadleas, Garnets and Whinmoor schemes which are now on site and were procured through YORbuild. The lessons identified have been incorporated into the tender documents for the Beeches and Nevilles.

## **5 Conclusions**

The project team considers that a two stage procurement process to procure a contractor to design and build new build council housing on the Beeches and the Nevilles sites via the YORbuild2 Framework to be the most efficient method of procurement in terms of timescales and resources.

## **6 Recommendations**

- 6.1 It is recommended that the Director of Resources and Housing:

- Approves the decision to procure a contractor to design and build new build council housing on the Beeches and the Nevilles sites through a two stage procurement process using the YORbuild2 framework.
- Delegates decision making authority to the Housing Growth Programme Manager for the initial selection stage to approve the shortlist of four bidders.

## **7 Background documents**

None

## **8 Appendices**

Equality, Diversity, Cohesion and Integration Screening