

## Executive Board Report for the NPS Leeds Ltd. 2022 Joint Venture Review.

Date: 17th November 2021

Report of: Director of City Development

Report to: Executive Board

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

### **What is this report about?**

#### **Including how it contributes to the city and council ambitions**

- This report provides an overview of Leeds City Council's proposed future relationship with NPS Leeds Ltd. The work that has taken place to date will seek to ensure a design service and technical advice will be readily accessible to Leeds City Council following the expiry of the current agreement on 31st January 2022.
- Leeds City Council established a new joint venture company in February 2012 to provide technical services for a range of Council construction projects. The current agreement spans a 10-year period with a break clause at years 2 and 5 with an expiry date of 31st January 2022. The drive to setup such a provision was the result of numerous complex challenges with the 'in house' design service ADS (Architectural Design Service). Financial pressures and persistent shortfalls in budget targets hampered the future of ADS and a more efficient way to support LCC's technical needs was required. On March 9th 2011 Executive Board agreed to cease and decommission the service in its current form and further investigate the establishment of a Joint Venture Company with Norfolk Property Services (NPS). Norse Group Limited is the parent company of the NPS Group and wholly owned by Norfolk County Council. NPS Group has developed into a national, award-winning property consultancy delivering multi-disciplinary developments to a range of public and private sector clients across the UK.
- Since its launch, NPS Leeds Ltd has supported the delivery of a diverse portfolio of projects that continues to support Leeds City Council's discharge of its statutory duty. These include; schools (both new build and refurbishments), housing (new-build, refurbishment & extra care), civic building refurbishment (heritage & listed building status) and leisure related projects. Over the years NPS Leeds Ltd has steadily increased the number of directly employed staff from 28 in 2012 to over 80 full time staff in 2021. The company supports continued professional development by enabling training and associated activities throughout the year. The business has been committed to creating new employment opportunities where possible and supporting young people by offering apprenticeships, internships and graduate roles. A benefit of transferring the 'in house' design service (ADS) to NPS, has allowed access to a much wider support network of resource and expertise across other NPS partnerships known as the Norse Group.

- In addition to the above points, NPS Leeds Ltd. has requested a short extension to the existing contract. If approved the request will extend the current agreement until the 31<sup>st</sup> of March 2022 rather than the termination date of the 31<sup>st</sup> January 2022. The rationale for this is to utilise this opportunity to align the start date of the new agreement to both the Council's and NPS Leeds financial periods.

## Recommendations

### Executive Board is recommended to:-

- Agree the extension of the current agreement between Leeds City Council and Norfolk Property Services until 31<sup>st</sup> of March 2022.
- Agree the extension of the Joint Venture Company between Leeds City Council and Norfolk Property Services for a further 10 years (with a break clause in years 2,5 and 7).
- Delegate authority to the Director of City Development to finalise the contractual terms between Leeds City Council and NPS Leeds Ltd.
- Note that the implementation and management of the contract with NPS is overseen by the Chief Officer for Asset Management and Regeneration.

### Why is the proposal being put forward?

- As noted at the start of this report the joint venture company, known as NPS Leeds Ltd, was established with Norfolk Property Services in February 2012 to provide technical services for a range of Council construction projects that supports Leeds City Council discharge its statutory duty in many service areas.
- The benefits of the Joint Venture company enable Leeds City Council to have equal control on all major decisions and retains influence over the company through representation on the Board of Directors which gives a greater degree of involvement than would be possible via a more traditionally procured contractual arrangement. NPS Leeds Ltd provides a full range of professional design services which includes; architecture, quantity and building surveying, structural, general building services advice and fire safety engineering. The company provides support to Leeds City Council and other organisations throughout Yorkshire, ensuring compliance whilst discharging statutory obligations.
- As the term of this agreement draws to a close, an options appraisal was undertaken which explored a wide range of potential routes available to secure design and technical input for LCC services. This was considered by the Council's Strategic Investment Board in January 2020, with the two options set out below identified as requiring further investigation:
  - Extend the current agreement following a review of the services required.**
  - Traditional Procurement / Utilisation of Existing Frameworks**

These options have been further reviewed with input from the commissioning services within LCC who confirmed that continued access to any technical service needed to demonstrate the scope to provide a multi-disciplinary range of services.

#### 4 **Traditional Procurement / Utilisation of Existing Frameworks**

The risks of allowing the current agreement between NPS Leeds Ltd and Leeds City Council to elapse and moving to existing frameworks could extend the initial procurement / call off time and impact on the Council's ability to deliver at pace. Analysis has shown that many firms on existing frameworks generally specialise in a limited number of professional

disciplines. With this being the case, there is a high probability that the LCC commissioning service will need to procure additional services from multiple organisations where several disciplines are required. This has the risk of increasing cost, but also adds to the resource pressures within the Council in terms of the officer time to run the procurement processes.

- 5 It should be acknowledged however that existing frameworks are currently utilised to deliver some LCC projects, and this delivery route is rarely void of challenges. Analysis of the strengths, risks and opportunities associated with utilising existing frameworks is set out below.

Strengths	Risks
<ul style="list-style-type: none"> <li>• Commercial approach to service delivery</li> <li>• Flexibility to meet peaks and troughs in workload</li> <li>• Access to multiple providers within the Framework</li> </ul>	<ul style="list-style-type: none"> <li>• Limited options within the current Frameworks.</li> <li>• Limited multi-disciplinary services offered from each provider within the existing frameworks</li> <li>• Cost of services may fluctuate / inconsistent</li> <li>• Time required in which to commission any new work / each project.</li> <li>• Reduced Council influence</li> <li>• Exposed to market forces</li> <li>• Reputation of private sector partner</li> <li>• Duplications of roles in order to manage the contract.</li> </ul>
Opportunities	
<ul style="list-style-type: none"> <li>• Seek efficiencies from an agile private sector company</li> </ul>	

**6 Extend the current agreement following a review of the services required.**

As previously noted, the NPS business model was established to provide a multi-disciplinary design service across key professional services. Currently NPS supports the authority to deliver its obligations and discharges those functions well in matters such as condition reports, EPC surveys, and ad-hoc housing SLA that is designed to offer direct technical support. The exploration of this option has generated favourable dialogue from both NPS Leeds Ltd. and the relevant LCC commissioning services. This option would seek to extend the partnership following agreed adjustment to the current Service Level Agreement to reflect any necessary changes in line with the authority’s ambitions and current delivery standards.

- 7 Analysis of the strengths, risks and opportunities associated with extending the current agreement is set out below. It should be acknowledged however that as with all partnerships, it is certain that continued effort will be required to maintain and improve the service. A longer-term strategic outlook of what LCC will require from NPS, as a technical service, is continually evolving and this process of evolution will ensure a wide range of options remain available to Leeds City Council that provides a flexible professional service fit for the future.

Strengths	Risks
<ul style="list-style-type: none"> <li>• Staff T&amp;C’s remain unchanged</li> <li>• No requirement for TUPE – continued protection of staff T&amp;C’s</li> <li>• Flexibility to meet peaks and troughs in workload</li> <li>• Sustainability over the longer term through wider opportunities within the Norse Group</li> <li>• Service improvements could be supported via external technical providers</li> <li>• Leeds City Council will retain influence within the service</li> <li>• Consistency of live projects and future work loads</li> </ul>	<ul style="list-style-type: none"> <li>• No improvement / decline in the service delivery</li> <li>• Sub delegation of professional services leading to a lack of understanding LCC’s obligations and compliance procedures.</li> <li>• Duplications of roles in order to manage the contract.</li> </ul>
Opportunities	
<ul style="list-style-type: none"> <li>• Target new work from other LA</li> <li>• Increase bidding for external works</li> </ul>	

<ul style="list-style-type: none"> <li>• Maintain a profit share agreement with the Council</li> </ul>	
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- 8 As noted in a paragraph 2, the benefits of extending the Joint Venture Company enables Leeds City Council to have equal control on all major decisions within the company and retains influence over the company through representation on the Board of Directors which gives a greater degree of involvement than would be possible via a more traditionally procured contractual arrangement.
- 9 A proposed new 'Cooperation Agreement' between LCC and NPS Leeds would ensure the authority's statutory obligations continued to be delivered and by ensuring the commissioning process is aligned with the outcomes of the Property Management review, only key services (Asset Management and Regeneration, Civic Enterprise Leeds and Housing Leeds) will provide instruction to NPS. This will ensure that commissions are only established where projects contribute to the aspirations and outcomes set out in the Best Council Plan and that funding is in place, therefore limiting the risks of aborted work and associated fees.
- 10 A further noticeable development within the proposed extension would support Leeds City Council (if required) access to specialist external advisors via NPS Leeds Ltd. to support the delivery of specialist property related projects. This is not intended as a tool to support the management of construction projects, it will simply service the ongoing flexibility needed to meet the wide technical demands of a local authority and a route to additional specialist technical support.
- 11 A distinct advantage of developing both the relationship and NPS as a technical partner would be the retained influence Leeds City Council would have within this Joint Venture Company. The continuity of existing schemes and 'pipeline work' is essential for both the authority and NPS to ensure the delivery of committed programmes continue to achieve their objectives. The development of the partnership would ensure the long-established 'Best Council' strategic focus to be an efficient, enterprising and healthy organisation is embedded within the DNA of the Joint Venture Company. The result will see NPS Leeds Ltd actively engage with and support Leeds City Council work alongside communities in order to shape and strengthen the prospects of the city and its residents.

**What impact will this proposal have?**

<b>Wards Affected: The report covers the whole of the city. The Executive Member for Resources has been consulted</b>		
Have ward members been consulted?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

- 12 The extension of the Joint Venture Company has no negative impact to the communities within Leeds. The service and NPS business model over the last 10 years of operation has supported Leeds City Council to deliver outcomes and has supported strategies such as:
  - Closing the gap between less advantaged children and young people through the delivery of new and refurbished schools.
  - More intelligent use of public transport through the support and delivery of the Park and Ride schemes.
  - Supporting one of the authority's biggest challenges by providing technical support to provide enough quality and accessible homes to meet the city's growing population
- 13 It is intended that the new 'Co-operation Agreement' will build on these successes and support Leeds City Council deliver its future ambitions moving forward. The EDCI screening

process and the key issues set out within the EDCI guidance tool kit has been considered throughout the development / review process of the existing and proposed agreement. Leeds has a very diverse population and the technical advice that NPS provides ensure the authority's strategies, policies, services and functions complies nationally in terms of construction standards and associated design requirements as a key deliverable.

### **What consultation and engagement has taken place?**

- 14 Continued consultation with both the commissioning services within Leeds City Council and NPS Leeds Ltd. has been foremost in shaping the proposed contract arrangements and 'Co-operation Agreement'. This engagement process has confirmed that the proposed approach is fit for purpose and will ensure business continuity for NPS Leeds Ltd. and future efficiencies in delivering Leeds City Council schemes is maintained. As noted in paragraph 3, the Council's Strategic Investment Board was engaged during the early stages of exploring the future options which enabled robust debate and challenge by senior officers to ensure all opportunities are explored.
- 15 The detailed terms within the original contractual documents have been reviewed under the guidance of senior officers within finance, legal and procurement services. Consultation has taken place with wider stakeholders such as associated LCC staff (as noted above) and Trade Union representatives.
- 16 The Executive Member for Resources has been consulted and is supportive of the proposal set out within this paper.

### **What are the resource implications?**

- 17 The resource implications for the extension of the Joint Venture Company is limited as the current and future agreement ensures the Council, as a shareholder, share 50% of the profits and would continue to have a degree of control over the company. Other income generated by the continued use of the agreement is via 'Volume Discount' for early payment of fees.
- 18 The company has a turnover of circa £5m and generates a return to the Council of circa £300k pa through a profit share arrangement as noted in the above paragraph. Whilst NPS Leeds must undertake 80% of its work for LCC as the Joint Venture Partner, the Teckal exemption regulations allow 20% to be undertaken for other clients. NPS Leeds have been successful in providing services to a range of other organisations including York City Council and Bradford MDC as well as private sector clients. LCC benefits from this in the return provided from the company, also the inevitable risks associated with managing peaks and troughs in workflow is transfers to NPS and the wider Norse Group.
- 19 The terms of the original contract states that LCC would only have financial liability for any losses the company makes in the first three years of operation by paying redundancy costs on a 3-year sliding scale. After this period NPS Leeds would accept all financial liability.
- 20 There is no immediate adverse impact on the Councils own financial position as a result of extending the NPS agreement. NPS Commissions are funded through approved budgets and capital programme schemes which are subject to separate consideration by Executive Board and delegated decision makers.

### **What are the legal implications?**

- 21 Following consultation with Legal & Procurement colleagues, the review of the existing and proposed NPS agreement has been positive with the legal implications of renewing the service agreement with NPS being viewed as low risk. The establishment of NPS Leeds in 2012 was exempt from standard procurement rules under the Teckel Exemption and the

proposed approach passes the requirements for the Teckel Exemption to apply. The use of NPS Leeds Ltd. to access technical services has continued for the last 10 years with no challenge from external organisations.

### What are the key risks and how are they being managed?

22 The key risks for the Leeds City Council in relation to the proposed continuation of the Service Agreement with NPS Leeds are:

Risk - 1	Mitigation measures
Failure to agree the terms of the new agreement and risk not being able to directly access technical support.	<p>NPS have been fully engaged from an early stage and supportive of the proposed option.</p> <p>All appropriate stakeholders have been consulted and support the proposal.</p> <p>Sufficient time has been allowed to ensure the governance process can take place and ratify the preferred outcome.</p>

Risk - 2	Mitigation measures
A decline in commissions due to drop in workflow or the quality of the technical services fall away.	<p>Whilst future workflow and access to grant funding to support initiatives is difficult to predict, the short to medium term outlook within LCC is sufficient to support the ambition of the NPS business model.</p> <p>KPI's are in place to monitor the outcomes of the work commissioned through NPS. Appropriate resources can be implemented via the wider Norse Group to maintain or improve current standards.</p> <p>NPS hold the risks associated with appropriately resourcing the business.</p>

Risk 3	Mitigation measures
Legal challenge from a third party	As noted in paragraph 17, the establishment of NPS Leeds in 2012 was exempt from standard procurement rules under the Teckel Exemption and the proposed approach passes the requirements for the Teckel Exemption to apply

### Does this proposal support the council's 3 Key Pillars?

Inclusive Growth

Health and Wellbeing

Climate Emergency

### 23 Inclusive Growth

Over the last 10 years the existing Joint Venture Company has strived to support the city's long term economic resilience by supporting the delivery of a range of construction projects that vary from new build and the refurbishments of schools, housing developments and leisure related projects. Development such as this intrinsically supports growth and investment throughout the communities in Leeds that ensures everyone benefits from the economy to their full potential.

NPS Leeds has continually Invested in people both within the business by offering apprenticeships, internships and graduate roles and by supporting Leeds City Council's discharge of its statutory duty. This directly links to the Authority's ambition of investing in health and wellbeing, improving education and skills and putting children at the heart of the growth strategy. The technical support that NPS will continue to deliver for Leeds City Council is an essential tool in delivering positive outcomes for the people of Leeds.

## 24 Health and Wellbeing

The technical support from NPS Leeds continues to support the development of essential buildings across the city of Leeds such as Leeds City Council's Leisure Centres. This level of technical support helps local communities maintain a healthy and physically active lifestyle.

Many factors contribute to health and wellbeing of communities within Leeds and this can be reflected in the delivery of good quality housing, regional employment, reducing carbon emissions through improvements to the infrastructure and more efficient buildings. Together with Leeds City Council, NPS Leeds will continue to support the technical requirements of a healthier Leeds.

## 25 Climate Emergency

Like many cities, Leeds has embraced the challenges needed to adapt to climate change. The current and future philosophy of NPS Leeds is imbedded within innovative practice and the delivery of appropriate technology to support carbon reduction. The technical support that NPS offers will continue to steer Leeds City Council towards the delivery of choices that will support people better manage their wellbeing and choose active travel and public transport.

This has already been demonstrated by associated technical support of buildings linking into the district heating system and the Park & Ride facilities within Leeds.

## Options, timescales and measuring success

### a) What other options were considered?

26 As noted in paragraph 3, the Strategic Investment Board was presented with numerous options when reviewing how LCC could maintain access to a technical service after the term of the agreement with NPS had elapsed. The analysis covered the following headings with a brief overview of the outcome:

1) **Extend the current agreement.**

The agreement was formed in 2012 and does not always reflect the technical demands of the authority as priorities changes. Should the technical services of NPS be extended into future years, a review of the current agreement would be required.

2) **Create a shared service with other LA's**

The creation of a shared service with other LA's did have some strengths, as a combined service would offer good flexibility and connect best practice. The risks and challenges to this approach however is deemed as being significant when considering the varied needs for each LA would likely hamper a consistent approach. Engaging with multiple LA's to determine the legal implication of such a venture would inevitably be a time-consuming process and the risk of exceeding the date by which an agreement would need to be finalised is perceived as being high.

3) **Create a Joint Venture Company with the Private Sector**

Currently Leeds City Council has equal control on all major decisions within the NPS Joint Venture Company through representation on the Board of Directors. It is perceived the risk of losing the current degree of involvement is higher with a private sector JVC.

4) **Extend the current agreement following a review of the services required.**  
This option was identified for further investigation.

5) **Traditional Procurement / Utilisation of Existing Frameworks**  
This option was identified for further investigation.

6) **Allow the agreement to elapse and incorporate the NPS design service back into the authority.**

On March 9th 2011 Executive Board agreed to cease and decommission the current internal service provider due to numerous challenges with the service. During the intervening period NPS Leeds Ltd has supported LCC's technical needs with no additional requirement to enhance this provision by re-energising an 'in house' technical service. This option would cease to continue the current agreement with NPS Leeds Ltd after the 31st of January and with it the ability to access a wealth of knowledge from the parent company – the Norse Group. Associated risks from service continuity are perceived to be high as the technical operation transitioned to Leeds City Council.

27 A more detailed review of option 4) and option 5) took place. The result of that workstream shaped the recommendations set out in this report.

#### **b) How will success be measured?**

28 The first indicator of a successful outcome will be the ability for Leeds City Council to seamlessly access technical support after the existing agreement has expired.

29 Continued success will be measured through the implementation of strategic objectives the LCC/NPS Partnership will need to meet that will reflect the strategic ambitions of the authority and measure the ability of NPS to respond to the authority's technical needs.

30 The following key changes to the existing agreement will strengthen and support the success of the proposed 'Cooperation Agreement'.

- Only the Corporate Landlord and Housing Services will provide direct instruction to NPS, this will ensure that commissions are only established where projects contribute to the aspirations and outcomes set out in the Best Council Plan and that funding is in place, therefore limiting the risks of aborted work and associated fees.
- NPS Leeds Ltd will support Leeds City Council (where necessary) gain access to specialist external advisors to support the delivery of specialist property related projects. This will ensure greater flexibility.
- Strategic objectives linked to Leeds City Council's 3 key pillars will shape the NPS partnership and ensure the technical advice received promotes these aims and ambitions.
- Asset Management and Regeneration will provide a dedicated NPS liaison officer to work with the relevant Leeds City Council services where necessary to offer support and guidance, and work directly with NPS to provide an improved service.

#### **c) What is the timetable for implementation?**

31 The current agreement between NPS Leeds Ltd and LCC will expire on 31st January 2022. NPS Leeds Ltd. has requested a short extension to the existing contract. If approved the request will extend the current agreement until the 31st of March 2022 rather than the termination date of the 31st January 2022. The rationale for this is to utilise this opportunity to 'tie in' the start date of the new agreement to the commercial financial period.



32 Subsequent to approval being secured, the new NPS 'Cooperation Agreement' will commence on the 31<sup>st</sup> March 2022.

## **Appendices**

33 'Appendix A - Equality, Diversity, Cohesion and Integration (EDCI) screening form.

## **Background papers**

34 None.