

District Heating Network – Contract award for building connections at Leeds Combined and Magistrates’ Courts

Date: 20/06/2022

Report of: Senior Project Manager, Sustainable Energy and Air Quality

Report to: Chief Officer Sustainable Energy and Air Quality

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’s and council’s ambitions

- The Ministry of Justice was successful in securing £3.5m in grant funding from the Public Sector Decarbonisation Scheme, administered by SALIX on behalf of BEIS. The funding has been awarded to connect the Leeds Combined and Magistrates’ Courts to the Leeds PIPES District Heating Network (DHN), undertake modifications to the secondary system (the heat distribution system) within the buildings and improve the energy efficiency of the buildings through the installation of double glazing, LED lighting and insulation.
- This report seeks authority to award an NEC3 contract to Vital Energi Ltd to undertake the works to connect the Courts to the DHN. The works primarily consist of the installation of primary pipework throughout the site area and the installation of the plate heat exchangers for heating and hot water together with a connection to the existing secondary system.
- Vital Energi Ltd is the Council’s Principal Contractor for the Leeds PIPES DHN and has worked with the Council and the Courts on the design of the DHN system for the site upon which the PSDS application was based. Vital has successfully delivered Phases 1 and 2 of the DHN as well as multiple building connections and are best placed to deliver the works.
- Awarding these contracts will ensure that work is completed in accordance with the PSDS requirements of completing the work before the end of March 2023.
- On completion of the work the new connection will increase the demand on the DHN, which will see an increase in the volume of heat supplied to customers. This increased demand on the network will provide a positive contribution to the council’s climate emergency ambition of becoming net zero by 2030 by supplying low carbon heat and removing the reliance on traditional gas boilers.

Recommendations

The Chief Officer for Sustainable Energy and Air Quality is recommended to:

- a) Approve the authority to spend and award a NEC3 contract to Vital Energi Ltd to undertake the DHN connection to the Leeds Combined and Magistrates' Courts, to the value of £1,686,306.

Why is the proposal being put forward?

- 1 The council's Leeds Pipes District Heating Network (DHN) is delivering low carbon heat to tenants in council owned Multi-Storey Flats, the Leeds Playhouse, St George's House, Quarry House and the Leeds Trinity Academy. In March 2022, connections were completed at four council buildings in the civic quarter, St James' Hospital and at Leeds Beckett University Leslie Silver Building.
- 2 Following earlier exploratory talks, detailed discussions began between the Council and the Ministry of Justice in 2020 regarding the potential of a future connection to the DHN for the Leeds Combined and Magistrates' Courts in Leeds city centre. Heads of Terms were signed in October 2021 and a Heat Sales Agreement was signed in June 2022.
- 3 In 2020, BEIS launched the first round of the Public Sector Decarbonisation Scheme (PSDS) for decarbonisation and energy efficiency measures in public sector estates. BEIS have since announced £1.45bn in funding for the PSDS up to 2025 with rounds of funding made available on a rolling basis.
- 4 The Ministry of Justice (MoJ) worked with the Council and its Principal Contractor for the DHN, Vital Energi Ltd, to develop a bid for funding through phase 3 of PSDS for a connection to the DHN and associated secondary heating system and energy efficiency upgrades. The bid was successful and secured £3.5m in PSDS funding for the works.
- 5 The design for the connection has now been confirmed with a connection cost agreed with MoJ to install plate heat exchangers and connect the two court buildings to the main spine network.
- 6 It is proposed that Vital Energi Ltd are now awarded an NEC3 contract for the works at the Leeds Combined and Magistrates' Courts, with the value of the proposed contract being £1,686,305.50.

What impact will this proposal have?

Wards affected:

Have ward members been consulted?

Yes

No

- 7 In June 2022 the Chief Officer Sustainable Energy and Air Quality took a decision to enter into a Heat Sale Agreement (HSA) with MoJ governing the DHN connection at Leeds Combined and Magistrates' Courts.
- 8 Following further design discussions with MoJ and Vital Energi Ltd, the design proposal for the connection has been agreed and as such there is a requirement to enter into a contract with Vital Energi to undertake the work.
- 9 In awarding the contract to Vital Energi Ltd there are a number of issues to note:
 - i. The connection to MoJ was not part of the initial requirements or included within the original value of the DHN works contracts for phases 1, 2 or 3 of the network. However, the original tendered D&B contract clearly set out that the DHN was to be designed with expansion in mind and included a number of potential connections over and above the

initial key connections. Subsequent D&B contracts awarded to Vital Energi are written to the same effect.

- ii. In addition, the O&M contract that was tendered and awarded to Vital Energi Ltd set out that new heat customers shall be regarded as Additional Works, and that these will be undertaken by the D&B contractor as though these customers had been identified during the period of the D&B contract.
 - iii. The O&M contract also sets out that these Additional Works shall be carried out under the relevant provision, standards and requirements of the D&B contract.
- 10 The NEC3 contract will be based on the NEC3 contracts awarded to Vital Energi Ltd previously. Input is being sought by Procurement and Commercial Services (PACS) to update the NEC3 in line with the project-specific requirements for this extension of the network, however, the contract will follow the same format used previously to ensure consistency. A similar exercise has been undertaken previously for DHN connection works at Leeds Beckett University, as such both the project team and PACS are familiar and comfortable with the process involved.
- 11 Vital Energi Ltd will fulfil the roles of Principal Contractor and Principal Designer under the Construction Design and Management Regulations (2015) for the connection works in the courts.

What consultation and engagement has taken place?

- 12 Consultation has taken place with senior civil servants within MoJ and their consultants over the past two years, with the design and PSDS process being a collaborative one. Through this process Vital Energi has also been consulted continuously and are comfortable with the approach set out here for contracting the works.
- 13 Vital Energi has consulted Highways Services within the Council on the works to ensure appropriate notice is given regarding any potential disruption to traffic, and consultation will take place on an ongoing basis with Highways throughout the duration of the contract, as well as with any residents or businesses in the area who may be impacted by this potential disruption.
- 14 The Executive Member for Infrastructure and Climate Change and the Director for Resources have been consulted on the proposals.

What are the resource implications?

- 15 In terms of capital expenditure the proposed secondary measures modifications within the plant rooms, and the DHN connection work will be carried out using PSDS grant funding, meaning that there will be no capital cost implications for the council or the MoJ.
- 16 The secondary system modifications will help to increase the efficiency of the DHN connection for each building, which will reduce DHN operational costs and increase the amount of heat the DHN can supply.
- 17 As previously set out in the report to the Chief Officer Sustainable Energy and Air Quality “Leeds Pipes DHN Connection Agreements”, the courts connection will generate revenue for the council based on the commercial terms that have been reached with MoJ.
- 18 Vital Energi Ltd are being appointed to undertake the works using NEC3 contracts based upon NEC3 contracts used to appoint Vital Energi Ltd to design and build the Phase 1 Spine DHN network and the Phase 2 extension, so is a familiar contract structure for these works.
- 19 The works will be overseen by officers working within SEAQ.

What are the legal implications?

20 This is a significant operational decision and exempt from call-in. It is a direct consequence of a key decision ref D44638 taken by Executive Board on 17/7/2017.

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

- 21 Not appointing Vital Energi Ltd to undertake the DHN connections work at the Courts means there is a risk of the MoJ losing PSDS funding. The grant funding must be spent by March 2023 at the latest and using the outlined contract arrangements means this can be achieved. Not appointing Vital Energi could lead to MoJ delaying the connection whilst new funding is obtained, or claiming damages from the council.
- 22 Not appointing Vital Energi Ltd and subjecting the work to tender would mean there is a risk associated with having another contracting party involved with the works, which may result in delay, contractual disputes, and technical issues on the network or connection at the Courts. Vital Energi has already completed detailed design for this connection and as such is best placed to deliver the works. It potentially may also invalidate guarantees provided by Vital Energi Ltd on the whole DHN network if another contractor were to carry out the works.
- 23 The very low risk of failing to receive payment from the Courts is mitigated by signing the HSA with MoJ prior to entering into contract with Vital Energi for the works. Entering into the HSA gives the council legal protection against non-payment.
- 24 It is in the council's interest to increase the number of customers on the network, as this improves the financial position of the project through heat sales. As such it is critical that the above risks are mitigated through timely award of the contract discussed in this report.

Does this proposal support the council's three Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

- 25 The network will provide lower cost heating for the courts, helping to reduce fuel bills.
- 26 The network removes gas boilers from these buildings, helping to improve air quality and improving health.
- 27 The network directly reduces CO₂ emissions from heating, which is otherwise difficult and expensive to improve, helping the city to achieve net zero ambitions.

Options, timescales and measuring success

What other options were considered?

- 28 An alternative option is to carry out a competitive tender to appoint an organisation to undertake the works. This would add significant time to the completion programme meaning the PSDS grant funding would be lost. This could also result in disputes between Vital Energi and the appointed contractor over the technical design.
- 29 The proposal is therefore the most viable option available to ensure that the work is undertaken in accordance with the PSDS requirements. The work being awarded is considered within the scope of the contracts previously advertised and subsequently awarded to Vital Energi Ltd, so the proposed option is the most deliverable.

How will success be measured?

- 30 Success will be measured by the delivery of the works to programme and to budget. This will provide a capital saving and ongoing revenue saving for MoJ and enable the council to generate revenue through sale of heat.

31 These works will also increase the volume of heat supplied to customers on the DHN and this metric will be monitored upon completion and commissioning of the DHN supply into the building to ensure the project has been successfully delivered.

What is the timetable for implementation?

32 The works will be completed by Vital Energy Ltd prior to the end of March 2023 in line with the PSDS grant funding requirements.

Appendices

Background papers

33 N/A