

Council Housing Growth Programme (CHGP): Approval to enter into separate Early Works and Underwriting Agreements for New Build Council Housing on the Amberton estate and Seacroft Crescent

Date: 28th September 2022

Report of: Council Housing Growth Team

Report to: Chief Officer Asset Management and Regeneration

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

The information contained in Appendix 1 is confidential as it relates to the financial or business affairs of the Council. It is therefore considered that Appendix 1 of the report should be treated as exempt under Access to Information Procedure Rule 10.4 (3).

Brief Summary

- This report sets out recommendations and requests approval to enter into Early Works and Underwriting Agreements (EWUAs) for the Amberton estate (£435,250) and Seacroft Crescent (£116,692) with Wates Construction Ltd for a total sum of **£551,942 (excluding VAT)**. The EWUAs cover utility diversion and preparatory works to reduce the risk of third-party delays during the main contract which could lead to delays and compensation events.
- The Council intends to enter into NEC4 Engineering and Construction contracts (NEC4 ECCs) for each of the schemes with Wates Construction Ltd following the completion of the Early Works and Underwriting Agreements, which will be subject to a separate report.

Recommendations

The Chief Officer Asset Management and Regeneration is requested to: -

- a) Approve the separate Early Works and Underwriting Agreements with Wates Construction Ltd to undertake enabling works on the Amberton estate (**£435,250**) and Seacroft Crescent (**£116,692**) for a total sum of **£551,942 (excluding VAT)**.

What is this report about?

- 1 On 25th February 2021, the Director of Resources and Housing granted approval for the Council to enter into a Design Services Agreement (DSA) with Wates Construction Ltd (referred to in this report as 'Wates') for the development of 55 new council homes on the Amberton estate, Gipton and 33 new council homes at Seacroft Crescent, Seacroft.
- 2 Two separate planning applications were submitted in April 2022 to deliver a total of 88 new homes across these sites. Planning determination, which was originally expected in July 2022, has been delayed whilst the Wates respond to various technical queries following consultee comments from Flood Risk Management. However, Flood Risk Management have now indicated that they are prepared to accept the contractor's latest proposals following recent exchanges between the two parties. The Council Housing Growth Team have also received comfort that the Planning Officer is confident that this will allow him to give a positive decision once the contractors formal response has been considered. Planning approval is expected within the next 4-6 weeks.
- 3 To give more programme certainty and minimise the risk of disruption during the main construction works, Wates and NPS are advising that the utility diversions and disconnections, listed in Appendix 1, need to take place pre-contract under an EWUA to reduce the risk of third-party delays prior to entering into the NEC4 ECCs. This will ensure that during the main works, Wates can do their full site set up immediately and are not working around existing services and reduces the risk of LCC being liable for significant compensation events if third parties are unable to meet programme timescales. Therefore, given the low risk of the contractor not receiving a positive Planning decision, this report is seeking approval to allow Wates to place the orders for the disconnections and diversions now to maintain the current programme and avoid additional costs if orders to utility companies are delayed until after Planning determination.
- 4 No works are expected to commence until Planning approval has been received. There will be a minimum 8-week lead-in time from the point orders have been placed to works starting on site. Whilst many of the proposed disconnections included in the early works, are tailored to the current design layout, if, in the unlikely event that Planning approval is not obtained, LCC would only be required to pay a cancellation fee should the decision be taken not to proceed any further. Whilst Wates would need to recover costs from each service provider individually, they have estimated that the cancellation fees would be in the region of £30k.
- 5 Furthermore, current inflationary pressures mean that should the Council take the decision to wait until after Planning approval to place the orders this could result in additional costs totalling £30k for each week of delay. Therefore, based on Planning approval not being received for another 6 weeks this could add further inflationary costs totalling £180k should the current mitigation plan not be entered.
- 6 Instructing the enabling works now will also help maintain current momentum with the main build programme; the site preparation works, the utility disconnections and diversions will be complete by February, all in advance of the main works commencing in Spring 2023.

- 7 It is intended that the enabling works will commence in late 2022 with completion by the end of February 2023.
- 8 The enabling works comprise of the activities listed in the Confidential Appendix 1.

What impact will this proposal have?

- 9 The enabling works set out in Appendix 1 consist of sundry utilities diversions and site preparation works which will ensure that all sites are ready for development on entry into the NEC4 Engineering and Construction contract (NEC4 ECC). The enabling works under the EWUAs are necessary to ensure that we meet the critical path outlined in the construction programme. The key benefit of these works is that they will reduce the risk of third-party delays during the main contract and help maintain cost control due to current inflationary pressures.

How does this proposal impact the three pillars of the Best City Ambition?

- Health and Wellbeing Inclusive Growth Zero Carbon

- 10 This work is strongly aligned to the three pillars at the centre of the Leeds Best City Ambition as follows:

- 10.1** Support communities and tackle fuel poverty, improve housing quality and standards.
- 10.2** Promote sustainable and inclusive economic growth.
- 10.3** Reduce carbon through the improved insulation of our housing stock.

- 11 This proposal will support inclusive growth for the wider community through the employment and skills opportunities provided by the scheme once we enter into the NEC4 ECC.

- 12 The scheme, on completion, will promote greater Health and Wellbeing for residents through the provision of better quality and energy efficient social housing.

- 13 All homes are being delivered via the CHGP are built to a specification which focusses on cutting carbon, improving air quality, and tackling fuel poverty and which play a key role in ensuring excellence in delivery through design quality, space standards and energy efficiency standards. It sets out challenging targets for our contractors to meet in terms of carbon emissions for these new homes: It includes:

- A 'Fabric first' approach, meaning we will achieve high insulation levels (60% increase over current building regulations).
- Air source heat pump technology will be used to supply heat and hot water to the homes

- 14 In addition to this, as the programme moves forward, it will continue to explore how it can further contribute to delivering against the Council's aspirations around carbon reduction and this will include, as well as implementing energy efficiency measures, considering what opportunities exist for energy generation within our schemes. Energy efficiency standards are to comply with the 'Basic Requirements' of the 'Good Practice Standard' and the Contractor will provide SAP certificates and calculations for each dwelling.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted?

Yes

No

- 15 As part of the development of proposals for the two sites, the Council Housing Growth Team has engaged relevant Elected Members for the impacted wards, all of whom are supportive. The most recent updates were provided on 1st September 2022 when members were made aware that we were looking to undertake the enabling works.
- 16 NPS have reviewed the enabling works package for both schemes and have advised that they support the Council proceeding with the proposals listed in Appendix 1 to ensure that the critical path of the programme is met prior to entry into the NEC4 ECCs.

What are the resource implications?

- 17 The development of the schemes for the Amberton estate and Seacroft Crescent are being funded from capital scheme 33103 via Right to Buy receipts blended with HRA borrowing. The enabling works costs has already been captured within the project cost plan. Therefore, this report is only seeking approval to bring forward part of this budget spend now prior to the NEC4ECC commencing and is not requesting any additional funds.

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

- 18 The Council Housing Growth Programme is delivered using the Council's agreed project management methodology and a joint risk log is being established for this project with Wates.
- 19 The specific risk of commissioning these enabling works prior to entering into the NEC4ECCs is that the Council decides not to proceed with either of the schemes. However, in the unlikely event that Planning approval is not obtained, LCC would only be required to pay a cancellation fee in the region of £30k if the decision is taken not to proceed any further.
- 20 Whilst the Planning application is still to be determined, as the contractor is currently in the process of finalising a response to the remaining consultee comments following recent positive discussions with Flood Risk Management, the risk of planning approval not being awarded is considered low. The Planning Officer has also given comfort that he is confident that he will be able to give a positive decision once the contractors latest formal response has been reviewed. Planning approval is expected within the next 4-6 weeks and no works will commence before.
- 21 A ten percent LCC risk contingency has been included within the enabling works costs (Amberton - £37,309 & Seacroft - £10,457) to allow for any unforeseen additional works which could be identified once the works are underway. NPS have confirmed that they support the inclusion of a ten percent contingency.

What are the legal implications?

- 22 The recommendations set out in this report are a direct consequence of a previous Key Decision (taken by Executive Board in November 2018) which approved the investment in new sites for the delivery of social housing which included the Amberton and Seacroft Crescent schemes. Therefore, the proposal constitutes a Significant Operational Decision which is not subject to call in.

Options, timescales and measuring success

What other options were considered?

- 23 The alternative option is to undertake these enabling works following the award of the NEC4 ECC. This option has been discounted as it would seriously delay the critical path of the main works programme and increases the risk of LCC being liable for significant compensation events if third parties are unable to achieve programme timescales.

How will success be measured?

- 24 Success will be measured by reducing the risk of programme delays and LCC incurring subsequent compensation events after the NEC4 ECC has been awarded.

What is the timetable and who will be responsible for implementation?

- 25 It is intended that the enabling works will commence in late 2022 with completion by the end of February 2023.
- 26 Wates is preparing a second Enabling Works package to undertake a full site strip and grouting former mine-workings. If authority is given to proceed with Enabling Works 2, works are expected to take place between December 2022 and March 2023. A separate report and approval will be sought for Enabling Works 2.

Appendices

- Appendix 1 of this report is Exempt/Confidential under Access to Information Procedure Rule 10.4 (3).

Background papers

None

Related Decisions

- Council Housing Growth Programme Report to Executive Board November 2018 [Council and democracy \(leeds.gov.uk\)](#)
- Council Housing Growth Programme Report to Executive Board September 2022 [Council and democracy \(leeds.gov.uk\)](#)

