

# Council Housing Growth programme - Approval to enter a SCAPE Built Environment Contract with Morgan Sindall for Pre-Construction Services to support the delivery of new council housing at Middlecross, Armley extra care housing scheme

Date: 18<sup>th</sup> April 2024

Report of: Council Housing Growth team, Asset Management & Regeneration

Report to: Director of City Development

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## Brief summary

Executive Board previously approved the inclusion of the Middlecross, Armley site as part of the council housing growth programme to deliver extra care housing for older people requiring care and support. The Council had been working with Equans, who were awarded an NEC4 PSC contract in October 2021 to develop the Middlecross Extra Care Scheme and secured planning approval for the scheme in April 2023.

However, in November 2023 the Council were informed that Equans senior corporate structure had taken the commercial decision to withdraw from any uncommitted new build schemes, and that they would formally withdraw from the project at the completion of the RIBA 4 design phase, despite the project being viable and close to construction start.

In January 2024 the Council Housing Growth team engaged Morgan Sindall Construction Ltd via the SCAPE framework to carry out an initial feasibility exercise to determine the extent for potential residential development on the site at Middlecross, Armley.

As the scheme remains viable, approval is now being sought to enter into an NEC4 Professional Services Contract with Morgan Sindall Construction Ltd via the Scape framework for a total value of £370,513 to complete Pre-construction activities.

## Recommendations

It is recommended that the Director of City Development

- a) Approve entering into an NEC4 Professional Services Contract (PSC) with Morgan Sindall Construction Limited (MSCL) to deliver services of Pre-construction, Design and other Professional Services to complete RIBA Stages 4 via the SCAPE framework for the Middlecross project, to the value of £370, 513
- b) Approve a contingency budget to enable any surveys or other necessary costs to be met as detailed in Confidential Appendix B.

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

- 1 The Council Housing Growth Programme (CHGP) contributes to the Leeds Affordable Housing Growth Partnership Action Plan 2022-25 which has an affordable housing pipeline that targets delivery of c750 new affordable homes per annum over the next 3 years. This report seeks approval to procure Morgan Sindall via the Scape Consultancy Framework (Lot 1: Built Environment) to support the delivery of new build council housing to provide extra care housing for older people requiring additional care and support at Middlecross, Armley.
- 2 There is a need to develop good quality, sustainable, affordable housing across the city and the Council Housing Growth Programme is contributing to the Leeds Affordable Housing Growth Partnership Action Plan 2022-25 which sets out an affordable housing pipeline that targets delivery of c 800 new affordable homes per annum over the next 3 years.
- 3 A planning application was validated on the 23rd December 2022 and following a coordinated effort the proposal was subsequently approved on the 28th April 2023. The scheme proposal remains a three-story development that includes 53 x 1B 2P and 12 x 2B 3P dwellings with associated communal facilities including care facilities, commercial kitchen and c50 seat dining area.
- 4 In January 2024 the Council Housing Growth team engaged Morgan Sindall Construction Limited (MSCL) via the SCAPE framework to carry out an initial feasibility exercise on the site at Middlecross.
- 5 Subject to securing satisfactory design proposals and commercial position, further approval will be sought to enter a construction contract to deliver the homes on site.
- 6 The Council Housing Growth team and our technical advisers and consultants have reviewed both the technical and financial submissions for the Middlecross scheme and are satisfied that both reflect the Council's requirements and that the pre-construction costs provide appropriate market pricing.

## **What impact will this proposal have?**

- 7 There are limited opportunities to develop extra care housing in the city, and no other additional sites have been identified for inclusion in the council housing growth programme other than those included in the Executive Board report in July 2017. The delivery of new affordable housing on this site will contribute to the critical shortage of affordable extra care housing in the city.
- 8 This proposal will also bring a currently unused brownfield site back into use, providing high quality housing that supports the Council's inclusive growth and climate emergency agendas, together with wider benefit to the community in respect of community engagement akin to this type of development.
- 9 This report is seeking approval to complete any remaining work required for the Middlecross, Armley extra care housing scheme for stage 4 of the preconstruction phase to enable robust proposals to be developed in RIBA Stages 4 which will enable the scheme to commence construction during the 2024/25 financial year.
- 10 Throughout the initial stages of this project there has been ongoing consultation with Procurement and Legal colleagues within Procurement & Commercial Services. The SCAPE framework has been approved by PACS and as such the delivery of a project via this process is supported.

11 Subject to securing satisfactory design proposals and commercial position, further approval will be sought to enter a construction contract to deliver the scheme on site. A further report for the commissioning of project management, technical consultancy and contract management services for RIBA Stages 5 – 6 will be submitted once the project is ready to progress to this stage.

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

Health and Wellbeing

Inclusive Growth

Zero Carbon

12 The delivery of new homes will directly contribute to the priorities outlined in the Best City Ambition and this programme will directly support the following priorities by delivering additional social housing stock. The scheme directly supports all three of the Council's Three Pillars, which are at the centre of the Best City Ambition, through:

- Addressing challenges of housing quality and affordability against the trends of rising housing costs and the concentration of older, poor-quality, housing in low-income communities
- Creating vibrant places where residents have close access to services and amenities
- Supporting progress towards our ambitious net zero carbon target, focusing on: improving energy efficiency so that in 2030, Leeds will have made rapid progress towards carbon neutrality, reducing impact on the planet

13 The project will directly contribute to the achievement of a number of the key performance indicators the Council will use to measure success, including:

- a) Growth in new homes in Leeds
- b) Number of affordable homes delivered
- c) Improved energy and thermal efficiency performance of houses; and
- d) Reducing the number of households in fuel poverty.

14 The programme will also directly contribute to ensuring that “everyone in Leeds Live(s) in good quality, affordable homes, in clean and well cared for places”.

15 All homes will be highly energy and thermally efficient contributing to other Council objectives relating to climate emergency, sustainability and fuel poverty. Initial options and assessment for suitable alternative low carbon heating and hot water energy solutions have been considered at feasibility stage. Further work will be undertaken to determine which solution is the most suitable, taking account of capital investment costs, running costs for residents, overall carbon impact and the need to meet statutory requirements.

### What consultation and engagement has taken place?

Wards affected: Armley

Have ward members been consulted?

Yes

No

16 The Executive member for Housing Cllr Lennox has been briefed on a number of occasions and most recently on 4<sup>th</sup> April 2024 and remains supportive of the scheme.

- 17 Local ward members in Armley have been briefed throughout the development of the scheme and most recently on 14<sup>th</sup> March 2024 about the proposed arrangements for delivering the scheme through an alternative contractor following the withdrawal of Equans and remain supportive of the scheme.
- 18 The site is not listed for disposal and the delivery of council housing on this site is supported by colleagues in Land & Property. The site has been in void management within the General Fund in recent years and following Executive Board's approval to utilise the site to deliver affordable housing in July 2017, the site has now been appropriated to the HRA.
- 19 The Chief Officer of Housing is supportive of the development in this area of the city due to the critical shortage of extra care housing in the city. There are no other council owned sites indicated for extra care housing in City other than those already been progressed.
- 20 The proposals for progressing the site, including development potential and delivery route were presented to the Affordable Housing Delivery Board in November 2023 and the Board are supportive.
- 21 Public communications were issued to over 200 properties as part of the pre-planning consultation which took place between July and August 2022. This included the distribution of printed literature to local residential and commercial properties, as well as options to provide online feedback through various council channels. Despite limited responses the majority of feedback was in favour of the Middlecross Extra Care development.
- 22 In December 2022 the scheme went through a formal planning consultation process and planning permission was subsequently approved in April 2023.
- 23 The project team and our consultants will work with MSCL to ensure that a cost-effective budget can be developed for the scheme and to monitor the cost movements in the market. At the same time, the Council is working with partners delivering similar schemes across the region to benchmark costs so that a rounded view can be taken about the scheme before any decision is made at the contract award stage.

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

- 24 The Council Housing Growth Capital Programme has a total approved budget of £324m and incorporates sufficient funding to meet the costs of delivering the scheme contained in this report. Any scheme will be required to meet viability requirements, whereby the estimated rental income is sufficient to repay the borrowing costs over a 40-year period. The current market rental values within the area would suggest that this likely to be achieved. Any borrowing requirement is assessed at a council level rather than at a project level. As such the interest and loan repayment for this scheme will be calculated using the prudential borrowing model. A dedicated project team is in place to progress the scheme for the Council working with colleagues and stakeholders across many other departments.
- 25 It is now intended that an NEC4 Professional Services Contract be awarded to the sum of £370,513, to develop the scheme up to the completion of RIBA 4. Following this, should the proposals be satisfactory, a separate decision will be sought to enter into an NEC4 ECC Contract.

- 26 Appropriate and sufficient resources have been identified within the Council Housing Growth Team to deliver this project.
- 27 A separate decision report is being put in place to procure technical consultants for Project Management, Technical Advisory and Quantity Surveying services for the Middlecross scheme (RIBA Stages 4).

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

- 28 A key objective of the preconstruction period is to better understand the site, including any risks that it presents. The mitigation and allocation of these risks will be managed and considered during the pre-construction process. The project will be delivered via an NEC ECC contract, which requires client risks to be set out within the contract and any other residual items being transferred to the contractor. As part of the approval to award the construction contract, the future report will set out for consideration any risks which are proposed to remain with the Authority as well as the costs associated with transferring the remaining risks to the Contractor.
- 29 Identified risks to the project include the change of contractor. This presents a level of risk to the project at a key stage, but it is probable given the advanced stage of the project that a number of the key consultants/sub-contractors will be retained due to their design knowledge and liabilities and to avoid revisiting the project which has already secured planning approval.
- 30 Site constraints - the confined proximity of neighbouring residential properties to the site may impact on site access, restrict the unloading of bulky materials, and cause a level of disruption around the area. The contractor is assessing the matter and will submit a relevant mitigation plan to the authority for approval which will potentially include items such as a traffic management plan incorporating restricted delivery hours.
- 31 Party wall – a retaining boundary wall is located to the north of the site which is currently in a state of disrepair. This may require a party wall agreement with neighbours, which has the potential to incur programme delays. Early consultation is being sought in order to mitigate this risk and an allowance has been included in the cost plan.
- 32 Utilities - substation / Off-Site infrastructure upgrades required to support additional demand of development. Utilities searches and GPR survey undertaken. The site appears to be well served by all key utilities; however, the likelihood of requiring a substation and HV mains upgrade is significant. There is an allowance within the cost plan but until formal utility queries have been made the impact and probability remains high. High level allowance for provision of new services allowed in cost plan.
- 33 Energy Strategy. The energy strategy currently includes air source heat pumps (ASHP) as the primary source of heating and hot water. The original quote obtained by the previous contractor in 2023 has recently increased in cost by approximately £400k, subsequently a review of the strategy will be undertaken, and alternative heating methods considered. Any changes to the original strategy may require re-submission to planning and may potentially effect viability.
- 34 The project team recognises that the current market for residential development has experienced significant levels of inflation due to wider issues and continued demand within the sector. The current predictions are that these inflationary pressures will begin to stabilise and

then result in a readjustment of prices. The proposed approach for this project therefore enables the Council to take a view about value for money at a later stage.

- 35 A risk log for the programme is being managed by the Affordable Housing Delivery Board; the project team will continue to monitor any identified risks and will consider any new risks moving forward through the life of the project.
- 36 A LCC risk contingency has been included as set out in Confidential Appendix B to allow for any unforeseen additional works which could be identified once the works are underway.

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

- 37 The project is most likely to be delivered via an NEC contract, which requires Client risks to be set out within the contract and any other residual items being transferred to the contractor. As part of the approval to award the build contract, the report will set out for consideration any risks which are proposed to remain with the Authority as well as the costs associated with transferring the remaining risks to the Contractor.
- 38 The use of the SCAPE framework has been approved by the Procurement and Commercial Services legal team. The procurement process has been conducted in line with the Council's Contract Procedure Rules. The SCAPE4 framework was approved spring 2019. This framework has recently been reprocured by SCAPE5 and colleagues in Procurement & Commercial Services have reviewed the revised terms and approval to use SCAPE5 was granted in July 2022.
- 39 The new framework focuses on sustainability and regeneration, and as such includes a lifecycle agreement. This ensures that performance in relation to sustainability is monitored for five years post contract. The revised framework also offers more clarity, flexibility and client input on risk and KPI's and continues the focus on social value and training and employment opportunities. All works contracts are now also to be delivered under NEC4.
- 40 The use of the SCAPE framework has previously been approved by the Council's Procurement and Commercial Services team, as an alternative to the Yorbuild Framework, subject to consideration of the project requirements. The recently completed extra care housing scheme at Gascoigne House, Middleton was delivered through the SCAPE framework previously.
- 41 As a result of lessons learned from previous projects, where scheme costs and programme have been impacted due to the delay in utilities being on site resulting from lengthy lead in times, the PSC also includes provision for orders to be placed with statutory authorities. This will enable formal engagement with these providers in advance of the build contract, thus ensuring that the onsite programme can be achieved. There is sufficient lead in with these providers to withdraw any orders should the build contract not be progressed. It is understood that any monies paid for works that do not come into fruition with these providers will be refunded. The decision to enter these agreements will be subject to further reports submitted to the relevant decision maker.
- 42 There is a requirement to confirm to officers in both Legal Services and Land & Property, the extent of any ancillary agreements which are essential to deliver the scheme (for example utility section agreements and wayleaves) and which will require approval, so that Legal can plan

resources effectively. The full detail will be confirmed in the next stage once formal quotes have been received, and a further administrative decision to proceed will be taken by the Head of Council Housing Growth in consultation with the Chief Officer Asset Management & Regeneration.

- 43 The information contained in Confidential Appendix A and B attached to this report relates to the financial or business affairs of particular persons, or organisations, 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 that since this information was obtained through one-to-one negotiations between parties, it is not in the public interest to disclose this information now. Also, it is 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 parties involved in other similar transactions could use this information to influence the level of consideration 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.

### **Options, timescales and measuring success**

#### **What other options were considered?**

- 44 Following the withdrawal of the existing contractor, Equans, in delivering the project, options for delivery were considered and approval was given to procure an alternative contractor, Morgan Sindall Construction Ltd, through the SCAPE construction framework as the best means of achieving the project objectives and maintaining pace in delivery of this priority scheme.
- 45 The project team has also considered options for commissioning the technical consultancy and NEC contract management resource and support requirements for the scheme.
- 46 Having urgently considered options to take the scheme forward, including as outlined under Contracts Procedure Rule 3.1.6 to utilise the YORHub suite of frameworks, given the advanced stage of the scheme and readiness for delivery and the varying timescales involved with each, the proposal was for the Council to utilise the SCAPE procurement framework to engage a new contractor to deliver the project and achieve the current projected target of a start on site during the 2024/25 financial year.

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

- 47 The delivery of new council homes in Armley will contribute to the number of new affordable, as part of the city delivery target of c.750 new affordable homes per annum over the next 3 years.
- 48 The successful completion of this scheme will ensure delivery of a further 65 homes towards those targets.

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

- 49 It is intended that the pre-construction period will formally commence in April 2024 and be completed by October 2024, with the aim of starting construction works on site before the end of this calendar year, subject to suitable contract terms being agreed. It is anticipated that the building contract period will last around 18 months with completion of the scheme in 2026/27.

## Appendices

- Appendix A - PSC cost breakdown (Confidential)
- Appendix B – Further Information (Confidential)
- Appendix C – Equality, Diversity, Cohesion, and Integration Screening

## Related reports

- July 2017 Executive Board Report - CHG Programme Inclusion of Extra Care Sites - [Executive Board Report and Papers - Monday 17th July 2017](#)
- June 2021 Significant Operational Decision - [Decision Details - Procurement of a Design and Build Contract to deliver new build Extra Care and general needs housing schemes at Cartmell Drive South, Temple Newsam and Middlecross, Armley – evaluation outcome and contract award](#)
- October 2021 Significant Operational Decision - [Decision Details - Award of the design and build contract to deliver new build extra care and general needs housing schemes at Cartmell Drive South and Middlecross](#)
- September 2022 Executive Board Report – Rent Setting – [Executive Board Report and Papers – Wednesday 21<sup>st</sup> September 2022](#)
- January 2024 Significant Operational Decision - [Council Housing Growth Programme: Approval to procure an alternative contractor to deliver an Extra Care housing scheme at Middlecross, Armley via the SCAPE procurement framework](#)