

REPORT TO	ON
Cabinet	10 February 2021

TITLE	PORTFOLO HOLDER	REPORT OF
McKenzie Arms Development Procurement Strategy Update	Cabinet Member (Finance, Property and Assets)	Director of Commercial

Is this report confidential?	No
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Purpose of the Report

1. To update the proposed procurement strategy for appointment of a Contractor to deliver the McKenzie Arms development.

Recommendations

2. Cabinet approves the procurement strategy to appoint a contractor through an OJEU compliant framework to ensure the appointed contractor is experienced in delivering modular, passivhaus developments.
3. Cabinet to approve the delegation of Contract Award to the Cabinet Member (Finance, Property and Assets).

Reasons for recommendations

4. To allow the progression of the development that will deliver a passivhaus compliant build.

Other options considered and rejected

5. The Council could tender the works via an open procurement route, however due to the specialised nature of delivering passivhaus accredited housing it is advised that an OJEU compliant framework that allows appointment of Contractors who are experienced in delivering modular passivhaus schemes will de-risk this element of the development delivery.

Corporate outcomes

6. The report relates to the following corporate priorities: *(tick all those applicable)*:

An exemplary council	✓	Thriving communities	✓
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A fair local economy that works for everyone		Good homes, green spaces, healthy places	✓
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Background to the report

7. In September 2020 a report was taken to Cabinet that confirmed a request from the Cabinet to undertake an open procurement route evaluated based on cost, quality and social value for the appointment of a Contractor to deliver the scheme.
8. The Architect who progressed the design to allow a planning application to be approved has been retained to progress the design to allow a tender package to be prepared and priced by the Contractor. To date the design has been progressed to RIBA Stage 3, and incorporates the following key attributes:
 - MHCLG's Nationally Described Space Standards and meet optional standard Part M4(2) of Building Regulations in future proofing the homes through incorporating accessible and adaptable standards
 - Enhanced energy efficiency measures using air source heat pumps
 - Modern methods of construction, using Structured Insulated Panels (SIPs) as the main building frame which allows for reduced energy costs for future residents and reduced installation time on-site
 - Modelled to achieve Passivhaus Standard which provides a high level of comfort for occupants whilst using very little energy for heating and cooling enabling reduced energy bills
 - Modelling has been undertaken using the PHPP which confirms that it is possible for each of the dwellings to reach Passivhaus Standard.
9. Since the September 2020 Cabinet meeting, progress has been made to appoint some external project management and quantity surveying support to assist South Ribble to deliver the scheme. This appointment has been undertaken via a waiver to ensure the delivery programme is maintained. Appointment has been made to Gosling Construction Services (GCS) a Leyland based consultancy firm. As part of their appointment GCS were to undertake a critical review of the most appropriate procurement strategy and advise the Council on the most appropriate approach.
10. This report sets out this review and the recommended Contractor procurement strategy.

Procurement Strategy

11. The proposed procurement strategy has given full consideration of the Councils objectives for the scheme:

- Commencement of site works by third quarter 2021
 - Completion of works summer 2022
 - Management of the project within the approved budget of £2,217,000, this includes cost expenditure to date and design requirements to meet Passivhaus standards
 - Consideration of enhancements to achieve a Passivhaus accreditation, but as a minimum, a design which represents the very highest quality in terms of environmental outcomes
 - The use of modern methods of construction to support the targeted environmental standards and deliver construction efficiencies on site
 - A procurement route which delivers the key outcomes and is compliant with the Councils Contract Procedure Rules.
- 12.** The key drivers are challenged in a number of different ways, such challenges being potentially mitigated by the selected procurement route. Whilst no procurement option will guarantee to address all of the potential challenges in full, selection will be guided by those which are considered to be of most importance.
- 13.** The currently identified key challenges are considered to be:
- Securing a Contractor with the expertise and capacity to design, manufacture and deliver a modular building
 - Securing a Contractor with the expertise to deliver the Passivhaus / environmentally enhanced standard
 - The inflated housing and construction market putting pressure on available resource, pressurising the programme and potentially increasing prices
 - The status of the design to support the selected procurement route and the time taken to develop the design to the required stage
 - Ensuring that the design is robust enough such that the requirements of Passivhaus accreditation are met in full
 - Addressing any pre-commencement issues such as Party Wall, Tree Removal, Overage Rights and funding
- 14.** Prior to considering the procurement route for the appointment of a Contractor, it is important to first consider the procurement of the design and the Passivhaus accreditation. It is understood that the Architectural design has been prepared in accordance with the 'Passive House Planning Package' (PHPP) which ensures the design is compliant with the stringent requirements of the standard.
- 15.** The design has already been developed to RIBA Stage 3 and is cognisant of modular construction as being the optimum choice to achieve the Passivhaus accreditation. A

modular build relies heavily on design input from the manufacturer/contractor and it therefore follows that the detailed design should be developed by the specialist.

16. It is recommended that the design is developed to a Stage 3 + which would include:

- A developed Architectural scope/specification document, which would accurately reflect and described the enhanced requirements to achieve the Passivhaus accreditation
- A developed MEP scope/specification document, which would accurately reflect and describe the enhanced requirements to achieve the Passivhaus accreditation.

17. It is acknowledged that the selected Contractor procurement method will need to be:

- OJEU compliant
- Be compliant with the Councils Procurement Rules
- Deliver against the key project objectives
- Address the challenges highlighted previously in this report.
- Provide social value to the Council.

18. The procurement strategies considered are set out below;

- **Traditional:** design developed to RIBA Stage 4 by the technical team and open tenders invited based on a Bill of Quantities or Approximate Quantities.

Advantages	Disadvantages
Greater control over design and variations to the scope	Longer procurement period and later start on site
More straightforward appraisal of prices due to consistency of tender documentation	Reliance on accuracy of contract documents
Control over product selection and finish	Lose the opportunity for early Contractor / specialist engagement and added value
	Council retain majority of design risk
	Contractor bears no design risk
	Risk of achieving the Passivhaus accreditation remains with SRC

Recommendation: not considered the optimum procurement solution for the scheme, due to the length of time in procurement and the requirement to involve the specialist in the development of the modular design.

- **Design & Build:** Employers Requirements / Specification documents developed by the technical team and open tenders invited based on a Contract Sum Analysis and Contractor design

Advantages	Disadvantages
Greater risk transfer to the Contractor, including the requirement to achieve the Passivhaus certification	Variations to the scope more difficult to value and can be more costly
Cost and time certainty	Appraisal of tenders can be more difficult if the documentation is not robust, potential for greater derogation
Quicker start on site	Potential cost inflation due to the increased risk profile assumed by the Contractor
Early Contractor engagement and support with regard to the development of the modular construction requirements	
Less Client side admin requirements	
More focussed responsibility for the Client team	

Recommendation: that a Contractor be appointed on the basis of a Design and Build contract, allowing the specialist design to be developed, a more straightforward tender process and an earlier commencement on site.

19. Other possibilities considered and discounted:

- **Target cost:** lack of cost control.

20. Consideration also needs to be given on whether a single stage or two stage tender process should be used. The ideal option would be to issue tenders on the basis of single stage appointment, obtaining a fixed price from the market at the earliest opportunity and allowing the Stage 4 design to progress prior to site works commencing. Whilst this is the aspiration, it is acknowledged that the market preference, in order to de-risk projects from the Contractor side, is to seek appointment on a 2-stage basis and develop the price on an 'open book' basis. It is proposed that the market be tested through Expressions of Interest based on a single stage design and build tender approach and prepare for the need to flex the approach to a 2-stage tender if the market dictates this.

- 21.** Given the type of project, the volatility in the market, the probability that appropriate resource exists within the locality and the specialist nature of the modular construction, an open tender via the chest is not the recommended route for the selection of a tender cohort and an appropriate framework is proposed. The suitability and capacity of the frameworks would need to be interrogated swiftly and the team be prepared to flex the approach to an open tender if a suitable framework partner could not be found. It is recommended that one of the specialist modular house-building frameworks is utilised. The framework to be used will be dependent on the outcome of the Expression of Interest review and the framework that can provide terms that a favourable to the Council.
- 22.** The contractors tendering under the framework would be subject to a rigorous evaluation process using the Most Economically Advantageous Tender (MEAT) assessment process. The assessment process will be as follows:
- 60% Cost - The tenderer with the lowest cost would be awarded the full 60% cost score. Other bids would be awarded a percentage score pro-rata to this using the following formula: $\text{Total Lowest Bid Cost} / \text{Total Individual Bid Cost} \times 50$ (rounded to two decimal places)
 - 40% Quality – specific questions aimed at establishing the ability to deliver to the required quality, social value, health and safety and environmental outcomes on the scheme.
- 23.** It is recognised that demonstrating and delivering social value and monitoring environmental impacts is a key element of the Contractor appointment, it is therefore proposed that as part of the quality submission the contractor will be requested to demonstrate the following:

Please provide your quantifiable social value commitments to this project including full detail as to how they will be implemented, managed, and monitored to ensure successfully delivered. Please also include your reporting methods which will clearly demonstrate the social value generated against this project.

Please include as a minimum but not limited to:

- The percentage of local subcontractors and suppliers that will benefit from this project;
- The volume of employment, apprenticeships, work opportunities/placements and training opportunities/ upskilling for local people (particularly those in the local community) that will be generated from this project;
- Career workshops / talks and school visits;
- Community support; includes any work carried out in the local community which is outside the scope of contractual obligations;
- Social value initiatives the Bidder propose to bring into the project

Note: 'Local' is defined to be within a 37mile radius of the site.

- 24.** The environmental benefit will be agreed through a series of key performance indicators such as waste diverted from landfill.
- 25.** The recommended procurement strategy for the appointment of a contractor to the deliver the McKenzie Arms development is summarised below.

Delivery Approach	Tender Approach	Tendering Platform
Design and Build	Single Stage (building in flexibility to allow two -stage if the market dictates this approach)	Framework. Chosen framework to include contractors who specialise in modular and passivhaus build.

Programme

- 26.** The tendering programme has been developed to allow a commencement on site in July 2021. The key activities and milestones are set out below:

Activity	Milestone
Develop design and tender documentation	05 March 2021
Tendering Period	16 April 2021
Tender Review and Recommendations	30 April 2021
Develop detailed Design with appointed Contractor	09 July 2021
Commence Construction on site	26 July 2021
Works Completion	25 March 2022

Risk

- 27.** See table below

		High	
		Medium	
		Low	
Risk	RAG Rating (Likelihood)	RAG Rating (Impact)	Management Action
Failure to secure a Contractor	Medium	High	Early engagement through an appropriate framework and the issue of EOI's to assess interest
Failure to secure a Contractor with the appropriate skillset	Medium	High	Approach pre qualified suppliers through an appropriate framework
Programme pressures due to inflated nature of the market	High	Medium	Early Contractor engagement and development of a detailed and transparent programme
Cost pressures due to inflated nature of the market	High	High	Early engagement with the market will establish a budget, early Contractor engagement will allow any Value Engineering opportunities to be explored and incorporated into the scheme
Failure to prepare robust tender documents which accurately reflect the Clients requirements	Low	High	Early appointment of a PM / QS to ensure robust interrogation and challenge of the contract documents prior to issue
Failure to accurately reflect the requirements of the Passivhaus standards in the scope	Medium	High	Early appointment of a Passivhaus designer to interrogate the design prior to issue
Party Wall issues	Medium	Medium	Early appointment of a party wall surveyor to establish the impact and progress any required notices
Off site production time	Medium	Medium	Early Contractor appointment and progression of a Stage 4 design to allow manufacture to commence
Payment for materials off site, contractor insolvency	Medium	High	Either agree no payment for materials off site or enter into an appropriate vesting agreement
Failure to maintain progress on site	Medium	High	Early appointment of a PM to ensure progress is monitored and reported regularly and any warning flags highlighted and addressed
Failure to manage quality on site	Medium	High	Early appointment of a PM to ensure quality is monitored and reported regularly and any warning flags highlighted and addressed

Air quality implications

28. The proposed development site is located within an identified Air Quality Management Area (AQMA) but also presents a sustainable location close to Bamber Bridge centre offering existing alternative transport links.
29. Air Quality has been a material consideration throughout the planning process and an air quality assessment undertaken through consultation with the Councils Environmental Health department. Measures have been agreed through the planning process to address air quality concerns supported by Environmental Health.

Comments of the Statutory Finance Officer

30. The proposed procurement route is to utilise an OJEU compliant framework, seeking fixed price bids on a single stage Design & Build basis.

This offers a number of benefits;

- Targets specialised contractors
- Secures early appointment of a contractor
- Mitigates financial risk for the Council

31. The project will be managed via an External Project Manager who has undertaken to ensure compliance with the Council’s Contract Procedure Rules.

32. This scheme is included in the Capital Programme, and once received, tenders will be assessed against the available budget.

Comments of the Monitoring Officer

33. The proposed procurement strategy is compliant with both legislation and the Council’s contract procedure rules. The report acknowledges that the proposal departs from the cabinet decision of September last year but provides detailed and cogent reasons for doing so, referencing the benefits of the strategy and compliance with desired council outcomes.

34. The proposed scoring split 60:40 cost:quality is appropriate given the proposal to use specialist contractors for the delivering of the passivehaus scheme.

35. It should also be noted that social benefit and environmental impact are specifically referenced in the quality element and will be scored as part of the assessment of the bid.

Background documents

There are no background papers to this report.

Appendices

n/a

Mark Lester
 Director of Commercial Services

Report Author: Rachel Salter	Email: Rachel.salter@chorley.gov.uk	Telephone: 01257 515 332	Date: 19.01.21