

Report of	Meeting	Date
Director of Commercial (Introduced by Cabinet Member (Finance, Property and Assets))	Cabinet	Wednesday, 17 November 2021

Is this report confidential?	No
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Is this decision key?	Yes
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Savings or expenditure amounting to greater than £100,000	Significant impact on 2 or more council wards
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West Paddock Extra Care - Procurement Strategy

Purpose of the Report

1. To provide an overview on the main contractor procurement strategy for the 'Extra Care Scheme' at West Paddock. Life Expectancy in South Ribble is 80.1 years for men and 83.4 years for women. The appointment of a contractor and delivery of the extra care facility will ensure the commitment of South Ribble Council to provide affordable housing for this ageing population is achieved.

Recommendations to Cabinet

2. To approve a 2-stage tender process.
3. To approve the tendering of the scheme to appoint a contractor at RIBA stage 3
4. To approve the use of the Northwest Construction Hub Framework, with an evaluation weighting of 70% quality (includes 20% Social Value) and 30% cost as stipulated by the Northwest Construction Hub.
5. To approve the use of the NEC4 Engineering and Construction form of contract to appoint a Contractor;
6. To delegate the award of a contract for stage 1 and stage 2 to Executive Member (Finance Property and Assets).

Reasons for recommendations

7. Following review of the various procurement options available and the current market conditions being experienced within the construction sector the above recommendations

have been identified to provide the project with assurance that the proposed procurement strategy will look to ensure that the project provides value for money, can be delivered on time and importantly within budget.

Other options considered

8. Covered under the main body of the report.

Corporate priorities

9. The report relates to the following corporate priorities: (please bold all those applicable):

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

Background to the report

10. The ambition to deliver Council owned affordable housing is outlined in the administration's Corporate Strategy.
11. In Sept 2020 Cabinet Members approved that the site for the new extra care facility would be the West Paddock site. Members approved £50,000 to progress the feasibility study
12. In July 2021 Members were asked to note that £200,000 of the £10m approved budget will be used to progress the design development of the Extra Care Scheme

Main Report

13. As part of developing the procurement strategy a number of procurement options available for this project were reviewed. The findings are summarised below.
14. The various procurement options available reflect fundamental differences in the allocation of risk and responsibility between the Employer, Contractor and Consultants. The procurement methods applicable to the circumstances of this project can broadly be classified under four headings:
 - Traditional
 - Design and Build
 - Management Contracting
 - Construction Management

The four main procurement methods are considered further below.

Traditional Form

15. The main feature of a traditional form is that the design process is separate from construction, and full documentation is required before the contractor is invited to tender for carrying out the work. The client retains control over design through the appointed consultants. Generally, there is little or no design responsibility on the contractor.

Design and Build Form

16. A tender method where the Contractor is responsible for undertaking both the design and construction of the work in return for a lump sum price. This requires involvement from the Contractor during the design stages to provide benefit from input into programme, design, cost, and de-risking the project. This design can either be undertaken up front via a 2-stage tendering process, or during the construction (technical) phase if a single stage tendering process is completed.

Management Contracting

17. The Client appoints a design team as in the traditional method, augmented by a management contractor whose expertise and advice is available throughout the design development and procurement processes. The Management Contractor breaks the project down into works packages and appoints sub-contractors for each package. The Management Contractor is reimbursed their direct costs and paid a fee.

Construction Management

18. This is a type of Management procurement route where the Client appoints a design team and enters into an agreement with a Construction Manager or in-house manager. The Construction Manager does not directly undertake any of the construction work, which is broken down into packages and carried out by trade contractors. These trade contractors are appointed by the Client and are directly and contractually responsible to him. Thus, the work involves a series of separate contracts rather than a single contract. Whilst the contract structure is different to Management Contracting, the advantages and disadvantages are similar to those listed in management contracting.

A summary of the pros and cons for each procurement method are summarised in Table 1 below.

Table 1 - Procurement Method Pros and Cons

Procurement Method	Pros	Cons
Traditional	<ul style="list-style-type: none"> - Client retains design control through the consultants. - This is generally a popular procurement route with Contractors as they do not carry design risk and their tendering costs are relatively low. - A lump sum tender is obtained at the outset offering a reasonable degree of cost certainty to the client. - Completion within the contract period is an obligation on the contractor. - The method provides an effective means of fairly assessing cost implications on post contract variations (for example, by using Bills of Quantities). 	<ul style="list-style-type: none"> - Full design is required before tenders are invited, so the pre-contract period is relatively long and this often results in increased project duration overall. - Overall allowances for Consultant's fees are often relatively high with this route, due to the need to procure a full design prior to obtaining tenders. - There is little or no opportunity to take account of buildability advice from the Contractor, as design is usually complete prior to their involvement. - As the Employer retains responsibility for design they will as a consequence retain responsibility under the building contract for deficiencies in the design. This can lead to increased costs during the construction phase as instructions are given to introduce or amend design details or specifications.
Design and Build	<ul style="list-style-type: none"> - Can allow different design solutions to be submitted as part of the tender process, thus offering the Client a range of solutions. - Offers the greatest degree of cost certainty to the Client provided post contract changes are avoided. - Completion within the contract period is an obligation on the contractor. - Allows the contractor some input into design matters and can therefore offer some cost efficiencies through their influence on selection of materials and methods of construction. - Design and construction phases can overlap to some degree, potentially allowing a shorter pre-contract period and overall programme compared to traditional procurement. 	<ul style="list-style-type: none"> - Loss of client control over detailed design. - A longer tender period is needed for the contractor to interpret and develop the design requirements of the project. - Contractors will have higher bid costs for this procurement route; therefore, it may be less attractive to them, particularly if the project is complex. - Tenders may be based upon different design solutions making direct comparison more difficult and requiring a longer tender evaluation process. - Employer's Requirements need to be clearly defined at the outset, otherwise there will be uncertainty over quality standards for detail design and workmanship. - There is only a limited means of fairly assessing post-contract design changes so cost and time implications of changes are likely to be more onerous for the client. Consequently, this

Procurement Method	Pros	Cons
	<ul style="list-style-type: none"> - Offers reasonable degree of programme certainty. - Encourages a value for money design solution - Design risk is transferred to the contractor. 	<p>method is not suited to projects that are likely to involve significant changes after contract award.</p>
Management	<ul style="list-style-type: none"> - Allows early appointment of the Main Contractor and a quick start on site. - The Contractor can provide buildability advice during the design stage - Design and construction can overlap to a large degree potentially offering programme savings - Offers flexibility to incorporate changes. 	<ul style="list-style-type: none"> - Poor cost certainty. There is no certainty of costs at the outset and final costs will not be known until the final package is complete. - The risk of programme delays ultimately rests with the client. - Significant cost risks exist at the interfaces between the packages both in terms of design interface and in circumstances where one package sub-contractor causes disruption to another. - These risks will ultimately lie with the Client. - A high level of client involvement is required as the project develops. - High levels of control are required over all aspects of design development, package procurement and construction. - Significant potential for disputes over cost and time overruns.

Tendering Process

Single Stage

19. A single stage tender process involves issuing tender documents to the tendering contractors and requesting a fixed price lump sum at the end of the tender period.

Two Stage

20. The tender documents are issued before the designs are completed and costs are competitively tendered based on preliminaries and OH&P mark ups. Once appointed, the Contractor and design team work together to complete the designs and obtain fixed firm prices from sub-contractors as each package is developed.

A summary of the pros and cons of the tender processes are provided in Table 2 below:

Table 2

Tendering Process	Pros	Cons
Single Stage	<ul style="list-style-type: none"> - Provides a fixed price at the end of the tender period. - As the fully detailed works are competitively tendered this usually results in a lower tender sum. 	<ul style="list-style-type: none"> - Contractor carries the risk of price fluctuations after the tender period. - Significant time and cost required to provide a compliant tender can put off some Contractors. - Contractors are reluctant to tender especially in current market where construction costs continue to increase
Two Stage	<ul style="list-style-type: none"> - Early Contractor involvement provides input on buildability. - Early Contractor involvement provides input on supply chain and resources. 	<ul style="list-style-type: none"> - Full costs not known until the end of the design stage once Contractor's fees have already been incurred. - As the works packages are not priced under competition, a 2 Stage tender process often comes at an increased cost over a single stage competitive tender.

21. The construction sector is currently under significant pressures following Brexit and the Covid pandemic. There are national shortages on labour and materials, and this is causing a significant amount of fluctuation and uncertainty around the price and availability of labour and materials.
22. Entering into a 2-stage tender process a contractor is appointed at RIBA stage 3 or 4 and they become involved in completing the detailed design whilst providing cost for each package as they are developed. In the current market, early contractor involvement would be beneficial from supply chain viewpoint and ensuring interest from the Contractors in tendering the scheme.

Procurement Mechanism

23. Any Council procurement is subject to The Public Procurement Regulations which sets out the legal requirements for public procurement.
24. The approximate estimated construction cost of the scheme of circa £12 - £13 million (excluding fees and VAT) is above the current financial threshold for works within the WTO's Agreement on Government Procurement, and so we believe that the full requirements of the Public Procurement Regulations are applicable to this project.
25. The regulations require that public contracts should only be awarded where a call for competition has been published. In practical terms this means either:
 - Publishing a contract notice on Find a Tender specifically for the West Paddock project, or
 - Subscribing to an existing framework, which has itself been established in compliance with the Regulations.
26. The pros and cons of these options are considered in Table 3 below.

Table 3

Procurement Mechanism	Pros	Cons
Advertised tender on Find a Tender	<ul style="list-style-type: none"> - Estimate of the costs to undertake a competitive tender on Find a Tender to be circa £20K - £30K, which is cost effective compared to fees for some established Frameworks. - The Council would remain in control of the contractor selection criteria and the selection process. - The Council would remain in control of the delivery phase of the project (unlike some Frameworks which require their processes and procedures to be followed for the life of the project). 	<ul style="list-style-type: none"> - The minimum procurement periods must be adhered to which can significantly increase programme. - It seems likely that the Open Procedure would need to be used on this project and whilst we would anticipate a high level of interest in a project of this nature, the number of bids in an open procedure may not be known in advance. - The risk of a challenge from an unsuccessful bidder is higher than for an established Framework.
Use of a Framework	<ul style="list-style-type: none"> - Provided the tender list is made up of suitable contractors there is a programme saving due to the fact that the tender list is already in place. The pre-qualification stage will already have been carried out and the tender evaluation period should be shorter than with an Open procedure. - The risk of a challenge is significantly reduced compared to a fresh procurement process (but the risk is not totally eliminated). - Key project documentation (e.g. contract amendments, forms of warranty etc.) may already be in place and available for use. 	<ul style="list-style-type: none"> - Fees for established frameworks vary and can be as much as 2% of construction costs. Some frameworks are therefore more costly to use than a separate open process. - The Employer can only work with the Contractors who are already on the panel. They may or may not be suitable in terms of size, experience, financial standing, location, available resources etc. - The Employer would need to follow the contract processes set out by the Framework, e.g. pre-agreed contract documentation, evaluation criteria, contract structure and the like. Care needs to be taken therefore that these processes are acceptable. - The Employer must be named in the Framework notice as only permissible users can participate in a Framework. Many Frameworks are set up to all Public bodies to join them after inception.

27. The available framework options have been reviewed and further consideration has been given to two frameworks:

- Rise Construction Framework
- Northwest Construction Hub

Table 4 provides a comparison of each framework.

Table 4 – Comparison of Frameworks

Item	Rise Construction Framework	North West Construction Hub
Tender process	Single stage or two stage (note – EOI showed predominantly interest if two stage is used)	Two stage only
Contractors	Robertson’s (Haydock) Morgan Sindall (Manchester) John Turner (Preston)	Conlon Construction (Preston) Eric Wright (Preston) ISG Construction (Chorley) John Graham Construction (Manchester) Seddon Construction (Bolton) Wates Construction (Manchester)
Form of Contract	JCT or NEC	JCT or NEC
Evaluation Criteria	To be set by the Council	70% quality 30% cost
Fees	1% of construction costs (approx. £145k) with 25% of fee feed back into social value project	£19,250 Inc within contractor OH&P
Overhead and Profit	Set on a project by project basis by the Contractor	Fixed between 3.45% and 6.25%

Form of Contract

28. Two of the most common forms of Contract have been considered to appoint the contractor;

- NEC4 Engineering and Construction Contract
- JCT Design and Build Contract.

29. The pros and cons of each contract are presented in Table 5 below:

Table 5 – Form of Contract Pros and Cons

Form of Contract	Pros	Cons
NEC4	<ul style="list-style-type: none"> - Encourages timely resolution of issues between the parties. - Provides a clear audit trail for project events. - Focus on programme and regular updates. - Suited to larger / more complex projects where the benefits justify the extra admin. 	<ul style="list-style-type: none"> - Increased admin resources needed to administer the processes for both consultants and Contractor. - Increased administration costs compared to JCT. - Clauses less well tested due to lack of published legal precedents so potential for different interpretations. - The precise scope of the Contractor’s design obligations needs to be clarified within the contract. - Ideally needs a document management system such as CEMAR to so that all parties have real time access to track the various NEC processes.
JCT	<ul style="list-style-type: none"> - Long established contract form – widely known in the industry. - Clauses well defined by legal precedent. - Standard D&B version available. - Less time consuming to administer for both consultants and contractor so reduced admin costs to Employer. 	<ul style="list-style-type: none"> • Less emphasis on timely resolution of issues so greater potential for disputes to emerge late in the project. This is a significant disadvantage to JCT. • Less focus on programme and programme updates.

30. Given the current market volatility within the construction sector caused by the impact of both Brexit and Covid and the uncertainty around future market conditions it is advised that the NEC4 form of contract is used which will allow for real time monitoring of project with a clear focus on effective programme management and regular updates albeit at the cost of additional resourcing however it is understood the greater clarity would enable reduced potential for problems. It would also allow for improved risk opportunity and risk management and provide for a detailed audit trail.

Programme

31. The key dates to progress the design and procurement of a contractor are set out in the table below. This programme considers the proposed procurement strategy that will allow an earliest start on site. The contractor would be appointed on a design and build basis at stage 3 (novating the design team) through a framework via a 2-stage tender.

Table 6 – Key Milestones

Activity	Milestone
Leader Briefing	11 October 2021
Executive Cabinet to Approve Procurement Strategy	17 November 2021
Tender Period	29 November – 10 January 2022
Executive Cabinet to Update on Design and Budget	15 December 2021
Evaluation Period	26 January 2022
Mid Tender Interviews	w/c 17 January 2022
Contractor Appointment Approval via EMD	02 February 2022
10 Day Call in Period	16 February 2022
Appoint Contractor	18 February 2022
Stage 3+ Design	February 2022 -April 2022
Submit Homes England Funding Application	April 2022
Council Budget Approval to Deliver Scheme	20 April 2022
Submit Planning Application	April 2022
Planning Determination (incl Judicial Review Period) and Stage 4 Design	September 2022
Agree Final Contract Sum	August 2022
Start on Site	September 2022
Estimated Construction Completion	January 2024

32. This is an early appointment for a 2-stage tender process which would normally appoint a contractor during Stage 4. However early Contractor involvement would allow buildability, programme and more importantly, supply chain issues to be reviewed and accommodated in the scheme before submitting to planning in April 2022. This has the benefit that what is submitted to planning should be both buildable within the proposed timescales, and affordable within the available budget.
33. The Stage 4 design would be completed between the design team and the Contractor whilst the scheme is in for planning, so once approved the final contract sum can be agreed to allow the Contract to be let and the Contractor to begin mobilisation for commencement in Q3 2022.

Social Value

34. The project will seek to use South Ribble Borough Council & Chorley Borough Council's Social Value Portal (SVP) as part of the Tender process to measure the social value impact and deliverability. The Social Value assessment will be included and undertaken as part of the tender process.

35. The SRBC minimum standard for Social Value weighting in construction contracts is 15%. The minimum requirement under the proposed North West Construction Hub framework is 20%.
36. Therefore, it is proposed that the quality element of 70% will be made up of 50% on quality questions and 20% Social value.
37. The Social Value element will be made up of 10% allocated to the SV Quantitative assessment (total value from the SV calculator) and 10% to the Qualitative assessment (information provided about how the SV measures will be delivered)
38. The project will seek to use the LITE list (Social value measures) from the National Themes Outcome & Measures (TOM's) which is mapped to the Council's core priorities and is intended to be used for the majority of our above £100,000 procurements.
39. The measures are extracted for reference below -

Theme	Outcome	NT Ref	Measure
Jobs: Promote Local Skills and Employment	More local people in employment	NT1	No. of local direct employees (FTE) hired or retained (for re-tendered contracts) on contract for one year or the whole duration of the contract, whichever is shorter
	More opportunities for disadvantaged people	NT3	No. of employees (FTE) hired on the contract who are long term unemployed (unemployed for a year or longer) as a result of a recruitment programme
		NT4	No. of employees (FTE) hired on the contract who are Not in Employment, Education, or Training (NEETs) as a result of a recruitment programme
		NT5	No. of 18+ y.o. employees (FTE) hired on the contract who are rehabilitating or ex offenders as a result of a recruitment programme
		NT6	No. of disabled employees (FTE) hired on the contract as a result of a recruitment programme
	Improved skills	NT8	No. of staff hours spent on local school and college visits e.g. delivering career talks, curriculum support, literacy support, safety talks (including preparation time)
		NT9	No. of weeks of training opportunities on the contract (BTEC, City & Guilds, NVQ, HNC) that have either been completed during the year, or that will be supported by the organisation until completion in the following years - Level 2,3, or 4+
		NT10	No. of weeks of apprenticeships on the contract that have either been completed during the year, or that will be supported by the organisation until completion in the following years - Level 2,3, or 4+
	Improved employability of young people	NT13	Meaningful work placements that pay Minimum or National Living wage according to eligibility - 6 weeks or more (internships)
	Growth: Supporting Growth of Responsible Regional Business	More opportunities for local MSMEs and VCSEs	NT15
NT15a			Provision of expert business advice to help VCSEs and MSMEs achieve net zero carbon
NT18			Total amount (£) spent in local supply chain through the contract
NT18b			Total amount (£) spent in Lancashire supply chain through the contract.
NT19		Total amount (£) spent through contract with local micro, small and medium enterprises (MSMEs)	
Improving staff wellbeing and mental health		NT20	No. of employees on the contract that have been provided access for at least 12 months to comprehensive and multidimensional wellbeing programmes
Reducing inequalities		NT41	Percentage of staff on contract that is paid at least the relevant Real Living wage as specified by Living Wage foundation
Ethical Procurement is promoted		NT43	Initiatives taken throughout the local and global supply chain to strengthen the identification, monitoring and reduction of risks of modern slavery and unethical work practices occurring in relation to the contract (i.e. supply chain mapping, staff training, contract management)
Social Value embedded in the supply chain		NT23	Percentage of contracts with the supply chain on which Social Value commitments, measurement and monitoring are required
Social: Healthier, Safer and more Resilient	More working with the Community	NT28	Donations or in-kind contributions to local community projects (£ & materials)
		NT29	No. of hours volunteering time provided to support local community projects
Environment: Decarbonising and Safeguarding our World	Carbon emissions are reduced	NT31	Savings in CO2 emissions on contract achieved through de-carbonisation (i.e. a reduction of the carbon intensity of processes and operations, specify how these are to be achieved)
	Air pollution is reduced	NT32	Car miles saved on the project as a result of a green transport programme or equivalent (e.g. cycle to work programmes, public transport or car pooling programmes, etc.)
		NT33	Car miles driven using low or no emission staff vehicles included on project as a result of a green transport programme
	Safeguarding the natural environment	NT67	Donations or investments towards initiatives aimed at environmental and biodiversity conservations and sustainable management projects for both marine and terrestrial ecosystems
		NT68	Plastic recycling rate on the contract (to e.g. reduce microplastics)

40. The fee payable by the successful contractor is 0.2% of the total contract value with a minimum fee of £750 per annum capped at a maximum possible fee of £7,500.
41. There is no charge for the bidders to use the SVP at tender submission stage.
42. Using the Councils SVP will mean support for the SV evaluation and ongoing contract management.
43. The NWCH SV does not include provision for undertaking the evaluation process.
44. It to be noted that the main procurement will be conducted through the Chest, but the Social Value element will be submitted as part of the process through the Social Value Portal with quantities and descriptions entered directly on to the SVP by the bidders. The SVP will complete this part of the evaluation after the closing date.

Community Wealth Building and Social Value Opportunities

45. As the extra care development includes two on-site commercial units with the hairdressers and café, the Council will be in a position to shape how employment practices are established when these businesses are setup. This presents the Council

with the opportunity to help the local economy to grow in a fair and sustainable way. To facilitate this the Development Officers will engage with the Community Wealth Building Officer to explore alternative ways to leverage these assets to build additional social value for the local community as part of the extra care development. The viability to use this space to accommodate alternative business models such as co-operate café and/or hairdressers will be considered with the aim of creating quality local jobs and retention of locally created wealth within South Ribble.

Summary

46. It is proposed following consideration, review of the options available and the reasons detailed above that for this project the procurement strategy involves the undertaking of the procurement for the main contractor via the NWCH framework using the Councils Social Value Portal, focusing on a 2-stage tender process through early engagement and appointment. It is put forward that the contractor is appointed under the NEC4 form of contract which will look to mitigate programme risks through effective administration/programme management.

Project updates

Public Engagement

47. An early engagement session was held at the Civic Centre on Thursday 21st October between 16:30 & 18:30. The plans for the development were well received by members of the public. Further engagement sessions will be held during the next stage of the design process.

Climate change and air quality

48. The work noted in this report does not impact the climate change and sustainability targets of the Councils Green Agenda and all environmental considerations are in place.

Equality and diversity

49. There are no equality and diversity considerations within this report.

Risk

50. Addressed within the body of the report

Comments of the Statutory Finance Officer

51. There is currently £10m approved in the capital programme for this scheme. At the Cabinet meeting in July it was noted that the estimated cost to deliver a 72 unit scheme was £14.26 million, although that would be subject to finalisation of the design and the outcome of the tender process; approval will be sought to appoint the contractor and to set the final scheme budget once the procurement process nears completion.

52. It is important to note that due to the prevailing economic circumstances, an area of risk that cannot be controlled is the increase in construction costs. The tender price inflation

has increased from 6.29% to 7.85% over a period of three months. This inflation may continue to increase, or steady, dependant on the future volatility of the construction market.

Comments of the Monitoring Officer

53. The proposed procurement process is compliant with both legislation and the Contract Procedure Rules. It is noted that the scoring methodology for the bids is fixed by the framework but would seem appropriate for this type of contract.

Background documents

South Ribble Extra Care Scheme – 16th September 2020

South Ribble Extra Care Scheme – West Paddock – 14th July 2021

Appendices

None

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