

# Cheltenham Borough Council

## Cabinet Member decision report: Appointment of lead consultant for the redevelopment of the former Monkscroft School site

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### Accountable member:

Victoria Atherstone, Cabinet Member for Housing

### Accountable officer:

Gemma Bell, CBC Director of Finance and Assets (Deputy S151 Officer)

### Accountable scrutiny committee:

N/A

### Ward(s) affected:

St. Marks

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### Key/Significant Decision:

No – Not required as this is within the HRA budget approved by Cabinet/Council February 2023.

### Executive summary:

Since CBC acquired the former Monkscroft School site in March 2020 for the purpose of delivering circa 60-70 new affordable homes, progress has been made regarding the overarching objectives to be achieved. Initially the intention was to pursue Modern Methods of Construction (MMC) on this site, however, in light of the numerous key MMC suppliers going into administration of late and the need to expedite delivery on this site, it has been collectively agreed between CBC/CBH, that we will now be employing a traditional construction approach.

The redevelopment of this site is a key priority for CBC/CBH. The intention is to expedite the project to ensure timely delivery of the new homes on the site. The appointment of the lead consultant is the first key activity to progressing with the scheme.

This report outlines the proposal to appoint an Employer's Agent, Quantity Surveyor and Project Manager, for RIBA Stages 0 - 7 via a direct call-off permissible through the NHS SBS Construction Consultancy 2 Framework. As it is a public Framework, CBC can access this.

## Recommendations:

The Cabinet Member of Housing is recommended to: -

- **Approve the appointment of an Employer's Agent, Quantity Surveyor and Project Manager, for RIBA Stages 0 - 7 to provide consultancy services, acting in such capacity through the NHS SBS Construction Consultancy 2 Framework, in respect of the potential development at the former Monkscroft Primary School site.**
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## Background

- 1.1. The Monkscroft Primary School, St Mark's, was closed in 2008 and subsequently demolished. Part of the former school site has since been redeveloped to create the Monkscroft Care Home. The remaining undeveloped part of the site extends to approximately 1.8 hectares (4.5 acres). In 2019, GCC submitted a planning application (19/01190/OUT) to redevelop this parcel of land to provide 60 new homes. The application was recommended for approval but deferred due to objections from highways with the request for further information in relation to the proposed highways arrangements. The proposed scheme of 60 dwellings was noted by the Architects Panel as a low-density scheme of only 33 dwellings per hectare with the request that the proposed site layout be reviewed.
- 1.2. The site is located close to Princess Elizabeth Way and is on the edge of the Poets Conservation Area in St Marks. The site adjoins the public highway to the North on Shakespeare Road and to the South on Shelley Road. In 2018 the site was identified as a strategic priority for CBC/CBH in consideration of the wider estate regeneration ambitions focused on the West Cheltenham area, and the site is allocated for residential development in the Cheltenham Local Plan. Monkscroft School site is the single largest parcel of land suitable for housing development within the vicinity (excluding Golden Valley), it is located within close proximity to Coronation Square, and within 1 mile of the Golden Valley Cyber Innovation Centre.
- 1.3. The redevelopment of the site at Monkscroft school represents an opportunity to deliver significant and much needed improvements to the whole of the West Cheltenham area. The site will be redeveloped as a wholly affordable scheme to provide homes for those in need, and an application for funding will be made to Homes England in due course.
- 1.4. In March 2020, CBC acquired the site from Gloucestershire County Council, with the intention up to deliver 60-70 new affordable homes to meet local housing need. Since this time, we have been working closely with CBC colleagues to determine and agree our approach to realising our collective ambitions that have in turn informed the proposed objectives and brief for the site.
- 1.5. The size and location of the site warrants the delivery of an exemplary scheme both in place making terms, architectural approach and in creating a cohesive community that connects with the existing homes that surround.

- 1.6. Over the last 12-18 months CBH has carried out site specific surveys, as well as exploring the proposed sustainability criteria to be met, to deliver the optimum solution to help us realise our objectives to deliver an outstanding sustainable project , which will include net zero carbon features as part of the future development that delivers a range of affordable homes to meet local housing need.
- 1.7. Discussions have been ongoing between CBH, Publica and One Legal since August 2022 to inform the proposed procurement strategy to appoint the lead consultant. Initially the intention was to explore MMC<sup>1</sup> as a potential delivery option as a means to supporting the Government's agenda to stimulate innovative solutions to accelerate delivery of homes. A range of potential Frameworks were explored and considered. It was collectively agreed that the NHS Framework offered the most suitable list of potential suppliers on the Framework that fit the required schedule of services, including expertise on MMC, client support services, etc.
- 1.8. In the Spring 2023 discussions between Senior CBC/CBH officers took place and it was agreed to proceed with traditional construction due to concerns with the MMC market and potential risks associated with exploring this site as a pilot. Based on the joint decision that the scheme will now proceed as a traditional construction scheme in lieu of MMC, the NHS Framework still offers the full range of expertise required and suppliers under this framework are well placed to support us with the development. As the Framework is a public sector framework, CBC is able to access the appointment under the NHS Framework.
- 1.9. The proposal is to enter into contract via a direct call off permissible via the NHS Framework. The NHS Framework expires on 31<sup>st</sup> July 2023 and therefore it is time critical to progress and award the contract through the NHS Framework in advance of this date.

## **2. Reasons for recommendations**

- 2.1. Suppliers under the NHS Framework offer a full end to end service. As part of the due diligence that formed the initial review to identify a preferred supplier, we have sought references and undertaken research into their financial capacity and expertise and are satisfied that their approach to partnering and eagerness to working on this project will support us to proceed with the development swiftly.
- 2.2. One Legal and Publica have been involved in the discussions and whilst the initial intention was to appoint a consultant to undertake some initial feasibility work to explore MMC in greater detail, their skillset, understanding of social housing and their approach to the project challenges and site specifics has been excellent.
- 2.3. The proposed fees are lower than the rates outlined in the NHS Framework of agreed rates and are comparable to other fee quotes received for the schedule of services we require. Based on an assumed contract sum of £20m, their fee equates to 0.02%. We

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<sup>1</sup> Modern Method of Construction

are therefore satisfied that this represents value for money. Please see further details at Appendix ii.

### **3. Alternative options considered**

- 3.1. Pursue an alternative procurement route either via an open tender or in employing an alternative Framework – both alternative options have been rejected on the basis of the delays this would cause to the overall project programme.

### **4. Consultation and feedback**

- 4.1. The site has been discussed at the overarching governance structure overseeing the CBC/CBH affordable homes programme, which includes the Strategic Housing Delivery Group (SHDG) and Cabinet Member Housing Working Group (CMHWG). These forums include Senior officers from CBC/CBH and the Cabinet Member for Housing. It is collectively agreed that the key priority is to expedite progress on this site.
- 4.2. Paul Jones, CBC Executive Director Finance and Assets, is in support of proceeding with the appointment of Employer's Agent, Quantity Surveyor and Project Manager, for RIBA Stages 0 – 7 under the NHS Framework and for this to be concluded swiftly, by mid-July, ahead of the expiry date of the NHS Framework (31<sup>st</sup> July 2023).
- 4.3. Regular reporting will continue via the current governance arrangements for new supply including the joint SHDG, CMHWG, Cabinet/Council as required and discussions between CBC/CBH officers.

### **5. Key risks**

- 5.1. Please refer to the risk assessment at Appendix 1.

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## **6. Implications**

### **6.1. Legal implications**

- 6.1.1. CBC intends to enter into a Call-Off Contract based on the NHS Shared Business Services Framework Agreement, entitled Construction Consultancy Services 2 (Ref: CBC/17/NH/PZR/9256), a framework agreement set up by the NHS for use by the NHS and Public Sector Organisations within the UK. CBC is permitted to use this framework pursuant to Regulation 33 Public Contract Regulations 2015 (PCR 2015) and the framework holder's rules.
- 6.1.2. CBC intends to directly award the Call-Off Contract for Employer's Agent, Quantity Surveyor and Project Manager, for RIBA Stages 0 - 7 rather than undertaking a

further competition, which the framework permits. CBC should be satisfied that the services offered by the framework agreement meets its needs.

6.1.3. The term of the framework agreement exceeds the 4-year permitted term under Regulation 33 of the PCR 2015. After seeking clarification, the NHS advised that it had extended the framework agreement twice, relying on Regulations 72(1)(e) and 72(8) of the PCR 2015, on the grounds that such extensions (modifications) were not substantial (within the meaning of Regulation 72(8)).

6.1.4. In mitigation of Paragraph 6.2.3 (above) it is noted that:

6.1.4.1. the framework agreement was awarded a number of years ago and has been extended twice without challenge; and

6.1.4.2. challenge to a framework agreement does not impact any call-off contracts, unless a call-off contract is challenged directly (Regulation 103(2) PCR 2015).

Signed off by: One Legal, [legalservices@onelegal.org.uk](mailto:legalservices@onelegal.org.uk)

## **6.2. HR implications**

Not applicable

## **6.3 Environmental and climate change implications**

- As part of developing and delivering the new homes for Monkscroft school site – the aim is to deliver homes which are close to net zero in support of the ambition to be a sustainable and net zero carbon council by 2030. It must be noted that achieving the delivery of net zero carbon homes requires adequate budget and for ambitions to be aligned across the stakeholder group.
- A key objective for this appointment is to ensure our ambition of a sustainable project is delivered by striving to deliver high quality, sustainable and homes that address fuel poverty considerations in operational energy.
- One of the key objectives for developing the project is to implement a biodiversity net gain strategy as part the landscape and open green space design. The site is circa 1.800 hectare which includes a large amount of mature trees which we will try to retain as far as practically possible.
- The initial flood risk assessment indicates the need for implementing an element of open attenuation which will form part of the enhancement to the landscape experience for the enjoyment of the future tenants and local community as well as add to the overall biodiversity. The detail is to be worked up in due course.
- We will be working with the appointed consultants to prepare a construction procurement strategy. Within the procurement exercise to appoint a main contractor we will be requesting a detailed environmental waste management plan in line with the government

guidelines, as well as the guidelines set out by DEFRA\*<sup>[1]</sup>. Further details will be worked up in due course when we are considering our procurement strategy.

Signed off by: Laura Tapping, CBC Climate Emergency Programme Officer

## **6.5 Financial, Property and asset implications**

The UK is faced with a chronic housing shortage, a 'levelling up' agenda and pressing net zero carbon targets. Due to the geographically constrained nature of Cheltenham, bringing this site back into use to delivery new affordable homes will make best use of brownfield land and support us in realising our HRA business Plan target of delivering 450 affordable homes by March 2028.

As the proposed fee from the supplier is less than the agreed rates captured on the NHS Framework and are in line with fees on other schemes, we are satisfied that this represents value for money.

Signed off by: Gemma Bell, CBC Director of Finance and Assets

## **6.6 Corporate policy framework implications**

Increasing the delivery of affordable housing forms a central tenet of CBC's Corporate Plan and HRA Business Plan 2023-2028. The scheme will explore and investigate the best way to support the Council's aspiration to be net zero carbon by 2030 as outlined in the Climate Change Supplementary Planning Document (SPD) and Climate Emergency Action Plan – Pathway to Net Zero.

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## **7 Promoting equality and reducing discrimination**

N/A

## **8 Performance management – monitoring and review**

- Appropriate programme monitoring and management mechanisms are established as part of a gateway approach following the RIBA Stages.
- The CBH Development Team will manage the project on a day-to-day basis, and through biweekly and monthly meetings with the consultancy team.
- Review measures are in place on key performance indicators covering client's satisfaction of services, time management, project quality, technical ability, Social added Value, Cost predictability, Collaboration Skills and so forth.
- The overall performance and progress will be overseen by the established CBC/CBH new supply governance arrangements including SHDG and CMHWG.

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<sup>[1]</sup> The Department for Environment Food and Rural Affairs

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**Appendices:**

- i. Risk Assessment
- ii. Financial summary – (exempt)
- iii. Climate Impact Assessment Tool

**Background information:**

- Report to Cabinet – 3rd March 2020, Acquisition of Monkscroft School site.

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## Appendix i: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
1	If the appointment through the NHS Framework isn't supported there is the requirement to recommence the procurement exercise in due course to appoint a lead consultant with resultant delays on the programme.	Alison Salter	4	4	16	Avoid the risk	Appoint consultant in line with recommendation.	Dorthe Riis Jones	14 <sup>th</sup> July 2023 (deadline to appoint under the NHS Framework)
2	If contracts are not entered into by 31 <sup>st</sup> July 2023 it will not be possible to proceed with the proposal to appoint under the NHS Framework as outlined in the report.	Alison Salter	4	4	20	Accept	Work with CBC colleagues, One Legal and Publica to ensure everything is in hand to enter into contract as soon as approval is received.  Discussions are already ongoing	Dorthe Riis Jones	20 <sup>th</sup> July 2023

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
							between CBH/One Legal and Publica.		
3	If there is a challenge to the NHS SBS framework and/or CBC's appointment under the same there will be resultant delays on the programme and potential legal action against CBC.	Alison Salter	5	1	5	Accept the risk.	Appoint consultant in line with framework agreement	Dorthe Riis Jones	August 2023 (30 day deadline to issue proceedings for a declaration of ineffectiveness against CBC's contract following contract award notice publication)