
DEPOT RELOCATION - PROCUREMENT

**Responsible Cabinet Member - Councillor Harker, Resources Portfolio
Responsible Director - Cliff Brown, Director of Community Services**

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to recommend a procurement strategy for the construction of a new depot facility to Cabinet for approval. This is to meet the requirements of the new Contract Procedure Rules.

Summary

2. Cabinet agreed on 12 February 2008 to undertake the new depot procurement as a Council capital scheme and that a further detailed report on the proposed procurement contract is brought back to Cabinet for approval. In addition the Council's new Contract Procedure Rules came into effect on 1 May 2008. A report to Cabinet (Cabinet 29 April 2008 Procurement – Interim Arrangements) recommended that the procurement of the new depot be considered as a strategic procurement. To meet the requirements of the new Contract Procedure Rules a further report detailing the procurement strategy for the project must be brought to Cabinet.
3. The new depot is to be constructed with a value of approximately £8.53m and the successful contractor will be appointed on a Design and Build contract using the Joint Contracts Tribunal 2005 Design and Build (JCT 2005 D&B) Form of Contract.
4. Project governance arrangements will be put in place to manage the project.
5. As the value of this procurement exceeds the EU Thresholds the contract has been advertised in the Official Journal of the European Union (OJEU).

Recommendation

6. It is recommended that :-
 - (a) The contract for the new depot proceed to tender.
 - (b) The procurement strategy for the construction of the new depot be approved.
 - (c) The project governance arrangements outlined in the document are approved with the delegations as detailed in **Appendix B** to the Project Board.

Reasons

7. The recommendations are supported by the following reasons:
- (a) The construction of a new depot and vacation of the existing site is essential to the Central Park Project.
 - (b) To enable the works to progress in line with the Central Park Project Plan.

Cliff Brown
Director of Community Services

Ken Poole : Extension 4440
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S17 Crime and Disorder	The design of the new depot will seek to minimise any potential impact from potential crime.
Health and Well Being	The design will take account of health and well being.
Sustainability	The design issues relative to sustainability are detailed in paragraph 9.
Diversity	The design of the new depot has regard to diversity issues.
Wards Affected	The only ward directly affected by the proposed development will be the Eastbourne Ward. Other wards may however be indirectly affected, for instance Lingfield ward will experience some initial reduction in traffic when the old depot closes and also additional traffic increases to the new location.
Groups Affected	Council employees and local neighbourhoods.
Budget and Policy Framework	This falls within the Council's budget and policy framework.
Key Decision	This is a key decision.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	Recommendation 19(b) of the January report will contribute to a Prosperous Darlington theme of the Sustainable Community Strategy. In that the realisation of the Central Park development will stimulate inward investment and growth into Darlington.

MAIN REPORT

Information and Analysis

8. Cabinet agreed on 12 February 2008 to undertake the new depot procurement as a Council capital scheme and that a further detailed report on the proposed procurement contract be brought back to Cabinet for approval.

Specification and Purpose

9. The new depot will comprise buildings incorporating 1950 sq m of office space, 1637 sq m of general workshops and 1800 sq m of Council garages. There will also be a considerable amount of open storage space. The building will accommodate approximately 170 office based staff as well as providing a base for some 1000 operational staff. The services operated from the depot will be:
 - (a) Environmental Services
 - (b) Construction and Building Maintenance Services
 - (c) Stores Distribution Services
 - (d) Joiners Shop
 - (e) Garage Workshop Services
 - (f) Blacksmith Services
10. The building is designed to Building Research Establishment Environmental Assessment Method (BREEAM) for buildings, which seeks to ensure that buildings are as environmentally friendly as possible, the target rating being BREEAM Excellent. As such the buildings will incorporate the following features:
 - (a) Fully controlled Building Maintenance System
 - (b) Natural cross ventilation
 - (c) Straw bale construction for sustainable thermal efficiency
 - (d) Sustainable urban drainage systems
 - (e) Newt mitigation solutions

Form of Contract

11. The new depot is to be constructed with a value of approximately £8.53m and the successful contractor will be appointed on a Design and Build contract using the JCT DB (Design and Build) Form of Contract. The JCT Design and Build contract is the most commonly used form of JCT contract and is the industry standard for this type of project.
12. This Form of Contract minimises the financial risk to the client as price certainty is obtained before acceptance of a tender however, this certainty is vulnerable if the client's requirements are not adequately specified and changes are introduced. It is therefore important that the design is finalised prior to the tender documents being sent out. At this point in time, extensive consultation on the specification has taken place and the scheme has been frozen. Whilst it is very unlikely that the end users of the facility will require any change to the frozen design, there will none the less be strict management arrangements in place to ensure that changes are not introduced without a full financial assessment.

13. A summary of advantages and disadvantages of this form of contract follows:

(a) Advantages

- (i) The client has a definitive price and time for the project, provided requirements are adequately specified and changes are not introduced
- (ii) Work on site may be commenced before the design is completed, at the contractors risk, resulting in a shorter overall programme
- (iii) The client deals with one firm only, for both design and construction
- (iv) Puts contractor in control of the supply of design information for construction, removing a prime cause of delay claims

(b) Disadvantages

- (i) Client may have to commit to build before detailed design is completed
- (ii) Client changes are difficult and usually expensive to incorporate
- (iii) Quality of contractors design is difficult to control and depends totally on the adequacy of the initial design specification, particularly with regard to whole life and environmental issues. Client appointment of the designers and novation to the contractor can however, overcome this

14. This form of contract is designed to give the greatest possible price certainty but the most significant risk is the quality of the design. It is therefore important that even though it is a standard form of contract that specific legal advice is given on the variation of terms from the standard which will be designed as far as possible to ensure that the possible risks highlighted above are minimised. The Council have instructed Dickinson Dees who are advising the Joint Venture Partners on the Development Agreement to advise on the terms of the contract. It is not possible in law to exclude all risks from a contract, however the best approach is obtain legal advice on the individual circumstances and the specific identified risks.

Governance Arrangements

15. The arrangements will consist of a Project Board, Project Sponsor and a Project Manager. The Project Sponsor will be Cliff Brown, Director of Community Services, the Project Manager will be Ken Poole, Assistant Director - Technical Services and the Project Board will consist of officers representing key areas of the Council. Membership of the Project Board is defined in the Project Initiation Document (see **Appendix A**) the roles and responsibilities for these arrangements are set out in detail in **Appendix B**.

The Procurement

16. This procurement is part of the wider Central Park Project. It is the intention that the full costs of the Depot will be met by the Consortium under the terms of the proposed Development Agreement. This procurement is subject to the satisfactory completion of that agreement. The proposed terms of the Development Agreement were approved by Cabinet at its meeting on 12 February 2008.

17. The new depot is being procured following the Council's procurement procedure and through the Official Journal of the European Union (OJEU) process. The contract is to be between the contractor and the Council. Under the Development Agreement, the project is to be funded by the consortium, comprising Commercial Estates Group, Keepmoat Ltd and Yuill Homes (CKY), in consultation with the Joint Venture partners, Tees Valley Regeneration (TVR), One North East, English Partnerships and the Council.
18. As the value of this procurement exceeds the EU Thresholds the contract has been advertised in the Official Journal of the European Union (OJEU). We have opted to follow the restricted process under the EU Directives, which is a two stage process. We have carried out the first stage (pre-qualification questionnaire) and seven contractors have been shortlisted by the Council's Tender Panel on 5 March 2008. They will be sent the tender in due course. Tenders will be evaluated on a 40/60 cost/ quality ratio, the detailed evaluation will be developed by the Project Board.
19. When tenders are received, evaluation will be undertaken by consultants, Faithful and Gould in conjunction with the Council's client representative, the Assistant Director – Technical Services. The tenders will be evaluated to reflect both price and quality and the outcome will be reported to Cabinet.
20. The evaluation process to select a competent contractor commenced with the Pre Qualification Questionnaire (PQQ) process, which shortlisted the expressions of interest down to a shortlist of 7 contractors. Based on the information received at the PQQ the Invitation to Tender (ITT) stage is as robust as the evaluation criteria used at the PQQ stage and covers a number of areas such as:
 - (a) Experience of similar works
 - (b) Targeted Recruitment
 - (c) Quality Assurance processes
 - (d) Management of the project to meet client requirements
 - (e) Project staff experience
 - (f) Support resources available to ensure a successful delivery
21. Project Management will be undertaken by consultants Faithful and Gould who are experts in project management. They will ensure that all potential costs are identified early, providing the opportunity to manage the development effectively and efficiently. Faithful and Gould will report to the Assistant Director – Technical Services as the Council's client representative. Faithful and Gould are currently under contract to the Consortium (i.e. the developer). Arrangements will be put in place through the build contract to ensure that the Project Manager is accountable to the Council.
22. Cost management will include:
 - (a) Preparation of tender documents
 - (b) Tender return review and analysis prior to tender acceptance
 - (c) Value engineering process prior to tender acceptance if required
 - (d) Proactive post contract cost control including monthly reports highlighting agreed contract changes and potential changes, summarising the forecast total spend against the original contract budget

23. A Project Board will be established and will be comprised of the officers named in Section 22 of the attached Project Initiation Document (**Appendix A**).

Site Selection

24. The Depot Relocation Project has been under discussion since late 2003 by virtue of which there have been nine potential sites considered. During this process of consideration each location has been assessed to determine its suitability, the factors having been considered included such items as:
- (a) Ownership
 - (b) Size
 - (c) Cost
 - (d) Planning Status
 - (e) Advantages/Disadvantages
25. The final outcome of which considered that the current proposed site south of Cummins was the best suited location.
26. A plan of the stage D drawing showing the new depot layout is attached (**Appendix D**).

Risk Assessment

27. A risk log from the Central Park Development has been established which also incorporates the risks associated with the Depot Project. A copy is attached (**Appendix C**). It must however be noted this is a live document and will evolve throughout the project.

Proposed Timetable

28. The proposed timetable for the remaining process in the procurement chain is as follows:
- (a) Conclude tender documentation – 1 August 2008
 - (b) Tender documentation out to contractors – 4 August 2008
 - (c) Return of tenders – 26 September 2008
 - (d) Award of contract by Cabinet – 4 November 2008 (This date and subsequent dates are subject to: the Development Agreement having been signed by then, planning permission having been granted, English Nature having granted a newt licence, and the work to relocate newts having been completed before the newt hibernation season).
 - (e) Contractor to conclude design - June 2009
 - (f) Commence work on site – June 2009
 - (g) Handover and commission – July 2010
 - (h) Project closure - September 2010
 - (i) Post Project Review - December 2010

29. Construction cannot start before newts have been relocated, which cannot happen before English Nature grants a licence. An application cannot be made for a licence until planning permission is granted. A planning application will be submitted in June after the necessary pre-applications consultations (referred to below) have been carried out. If the newts cannot be moved before the winter hibernation period, then the development could not happen until the spring. This process will be reviewed before the award of the contract, in case retendering is necessary on a revised contract programme.

Outcome of Consultation

30. Public consultation meetings covering the relocation of the depot took place on 19 and 23 May 2008. These were led by the design team's architects, members of the Consortia and officers from the Council. The outcomes of these consultations will inform the planning application, on which there will be further public consultations.
31. The frozen design has been arrived at following many hours, over the last 12 months, of consultation with the end users of the facility, this has covered all service managers and staff, also during this period, the process, involved meeting with the Senior Management Team of Community Services and incorporating their comments and feedback into the design.