

CHESHIRE EAST COUNCIL

REPORT TO: Cabinet

Date of Meeting:	12 th November 2012
Report of:	Strategic Director - Places & Organisational Capacity
Subject/Title:	Development Programme – Developer Framework
Portfolio Holder:	Cllr Jamie Macrae

1.0 Report Summary

- 1.1 The Council's Asset Service is responsible for the active management of a land and property worth over £600m. Increasingly the Council is committed to promoting economic growth, regeneration and new housing development through the smarter use of this land and property portfolio.
- 1.2 The requirement for separate procurement exercises for almost every asset disposal or development project that the council undertakes is a significant barrier to maximising the value of our asset base and to operating as efficiently and effectively as possible. It is therefore proposed that the Council establishes a new developer framework in order to streamline this process.

2.0 Recommendation

That authority be delegated to the Strategic Director – Places & Organisational Capacity to take all necessary steps to establish a new Developer Framework Agreement for development companies and related services to aid delivery of the Council's capital programme, including appointing the successful bidders onto the Framework Agreement upon conclusion of the procurement exercise.

3.0 Reasons for this Recommendation

- 3.1 The Council has a responsibility to local Council Tax payers to manage its land holdings and property assets as efficiently and effectively as possible.
- 3.2 The Council is committed to utilising property as effectively as possible as a generator of wealth and to support the renaissance of our town centres. There is also a need for a significant number of new homes in the Borough over the next Local Plan period. The Council has a responsibility to make land and property available to facilitate the amount of new development that is required.
- 3.3 A developer framework would help the Council bring forward development opportunities more efficiently and will help speed up the development process in order to generate capital receipts and realise economic, environmental and social benefits of our land and property.

- 3.4 This is a period of great change for local government and it is very difficult to foresee all the possible eventualities in which this framework could be used. There is a risk that circumstances or projects emerge which are outside of the terms of reference of the framework. In those circumstances, an additional OJEU compliant process would most likely be required.

4.0 Wards Affected

The developer framework will positively impact on development and regeneration in all wards of the Borough.

5.0 Local Ward Members

As above

6.0 Policy Implications including – Carbon Reduction

- 6.1 Creating this framework will result in a better controlled and consistent project environment which will help enable the systematic consideration of all Council policies and objectives in asset disposals and development.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 The project to establish the framework will be delivered within the new Development Programme by officers from Economic Development, Legal, Procurement & Assets teams. The costs of initiating this work during 2012/13 will be absorbed within existing budgets.
- 7.2 Specialist legal, commercial and procurement inputs will be required during 2013/14 and a proposal will be put forward through the Business Planning process. The forecast cost of this is approximately £200,000 in 2013/14.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 In this report Cabinet's approval is being sought to delegate authority to the Strategic Director Places and Organisational Capacity to enter into a tendering exercise for the setting up of a framework agreement, and to appoint successful bidders onto that Agreement.
- 8.2 The Public Contracts Regulations allows local authorities to enter into framework agreements with service providers, following a competitive tendering process, and to select service providers to provide particular services, as and when required, from the established framework agreements.
- 8.3 In order to comply with the provisions of Regulation 19 (10) of the Public Contracts Regulations 2006, a Framework Agreement should not run beyond four years.

9.0 Risk Management

- 9.1 Establishing any framework, by definition, creates a controlled environment for future development and disposal projects. This has obvious advantages in terms of compliance. However, it is likely to result in much less flexibility when setting evaluation criteria or outcomes for specific sites or types of projects. Once there is a framework in place, it would not be permitted to add or remove any hurdles/requirements during future mini-competitions.
- 9.2 By acting alone, the Council will be able to establish a developer framework that accords with corporate objectives and priorities. There are obvious advantages in not having to negotiate or compromise with partners (e.g. other local authorities) to ensure that the framework is fit for purpose for our organisation. However, a single unitary authority acting alone is unlikely to be able to guarantee a sufficient number of call-offs on the Framework to generate 'bulk purchasing' discounts or substantial efficiency savings.
- 9.3 Any framework to some extent 'fixes' fees, tariffs and values. Across the UK, the general trajectory of consultant fees and land values has been downward or flatlining since 2008. In this environment, caution will need to be exercised on pricing to ensure that any further downward price movement benefits the Council and not the delivery partners.
- 9.4 The new framework will result in a major shift in the way sites are brought to the market in Cheshire East. There may need to be some reputation management to deal with any adverse opinions, especially from any unsuccessful developer - particularly if they have a special or historic interest in a particular site.
- 9.5 From a legal perspective, framework agreements should operate for a maximum of 4 years, and any contracts awarded from the framework should be for no longer than a reasonable period longer than the original term of the framework (maximum of 3 years). Planning issues and property arrangements can be time consuming, particularly on the larger sites, to resolve so it may not be appropriate to use a framework approach on all schemes particularly in the latter years of its operation.
- 9.6 A robust project plan will be worked up and will inform the proposals that are taken through the Business Planning process. Depending on the nature of the framework ultimately agreed (in terms of scope and complexity) and on the procurement approach, for example if competitive dialogue were required, the cost and timescales involved in establishing the framework may be higher than forecast at this stage.
- 9.7 Any supplier wishing to be involved in a complex and lengthy procurement project would want some assurance that there would be a range of sites available for development so we will need to provide assurance throughout the procurement about the scale and deliverability of the project pipeline.

10.0 Background

- 10.1 The Asset Management Service is tasked with delivering approximately £2million of efficiency savings during 2012/13 which is being realised through a range of measures including continued rationalisation of our operational estate, procurement of goods and services and implementation of a leaner staffing structure.
- 10.2 At present, when the Council wishes to deliver a property outcome on its land, whether through a disposal or a development, there generally has to be a competitive bidding process for each site or opportunity. There are exceptions to this for example if there is an approval to negotiate with a single bidder.
- 10.3 Depending on the value of a particular asset or on the certainties and controls required by the Council, in terms of deliverables and timescales, these competitive procurement exercises are often expensive and time consuming.
- 10.4 By carrying out a single OJEU compliant procurement process to establish a new developer framework, the Council will appoint a selection of delivery partners across a range of disciplines such as consultancy, affordable housing, and mixed use regeneration.
- 10.5 Frameworks of this kind have been embraced by a number of high-performing local authorities and Homes & Communities Agency (HCA). They are also generally supported by private sector developers, consultants and Housing Associations as an efficient route to bringing assets to market.
- 10.6 Once a framework is established, developers and services would be procured through much more streamlined 'mini-competitions' which will be quicker and more straightforward. There would be strict requirement for the mini-competitions to be conducted within the terms of the original OJEU compliant process.
- 10.7 Establishing a developer framework would contribute to the following four objectives of the Assets service:
 - To consolidate our operational estate and minimise our carbon footprint and associated operational costs.
 - To serve Cheshire East customers by providing cost effective property engagement and construction services which support frontline service delivery.
 - To deliver a strategic land and property disposal programme which contributes to our overall capital investment strategy.
 - To utilise strategic assets to deliver wider regeneration benefits and stimulate jobs and economic growth.

- 10.8 An outline timeline for establishing a framework of this kind would be as follows:

December 2012:

Agree objectives, selection & award criteria and Issue Contract/Pin Notice

March 2013:

Invite Expressions of Interest, including pre-qualification information

July 2013:

Issue of tender documents (e.g. Invitation to Tender etc) and submission of bids by Tenderers

November 2013:

Tenders opened, compliance checks and evaluation

March 2014:

Final approvals & contract award

- 10.9 The detailed operational model of the framework is yet to be determined as there are a number of choices to be made, including the breakdown of the sub-categories (so-called lots) within the framework and the extent to which we work in partnership with neighbouring local authorities, sub-regional bodies or Government Agencies (such as HCA).
- 10.10 The framework would be divided into lots covering different stages of the development process from soft market testing to physical construction. Services could include:
- Project appraisal
 - Project and programme management
 - Finance and funding
 - Land assembly and planning
 - Design and technical
 - Commercial, cost and construction management
 - Construction
 - Sales and marketing
- 10.11 The process would cover the procurement of housing, commercial and mixed use development. Developers appointed through the framework will be expected to cover all areas of the development process such as the raising of development finance, obtaining planning permission, supply chain management, design and construction, including where appropriate the provision of affordable housing in association with a registered provider, design and construction of buildings and infrastructure, sales and marketing, aftercare and maintenance.

- 10.12 In short, it would aim to provide a one stop shop for development and construction-related works and services and work alongside our existing construction and consultancy panels managed by the Asset Service.
- 10.13 A bespoke framework to the Cheshire East area has advantages. Local companies are more likely to bid into a more local process and the selection process will ensure that tenderers are evaluated according to this Council's specific requirements.
- 10.14 Although this is a substantial piece of procurement work and will require a corporate approach, and the OJEU process can be bureaucratic and time consuming (between 12 and 18 months), it should result in significant time and resource savings and efficiencies going forward.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Caroline Simpson
Designation: Head of Development
Email: caroline.simpson@cheshireeast.gov.uk
Telephone: 01270 685908