

Cheshire East Council

Cabinet

Date of Meeting: 13th March 2018

Report of: Executive Director Place

Subject/Title: North West Crewe Package Procurement Strategy

Portfolio Holder: Cllr Don Stockton, Environment

1. Report Summary

- 1.1. The Council has set out a clear vision and strategy for sustainable economic growth in the recently adopted Local Plan. A key element of the plan is a significant investment programme in transport infrastructure to support the growth in housing and jobs in the borough.
- 1.2. The North West Crewe Package forms a key part of the Local Plan infrastructure programme for Crewe, which will deliver an improved highway network for the town. The benefits of the North West Crewe Package also extend to unlocking a number of other housing and employment Local Plan allocation sites by improving wider traffic movements and transport links, particularly in North Crewe.
- 1.3. As such, the delivery of the North West Crewe Package is important to achieving a supply of development sites in the wider Crewe area and upholds the Local Plan strategy. The housing sites that would be opened up would also make a significant contribution to maintaining the Council's 5 year housing supply and enable the effective management of any planning applications for land not allocated in the Local Plan. The successful delivery of these sites will also support the emerging strategy development work in the Crewe Masterplan and HS2 Constellation Partnership by demonstrating the town's ability to transform into a more successful place to invest and for its residents to live and work.
- 1.4. The new infrastructure will also provide a new access to Leighton Hospital. These improvements to the Hospital access junction will provide capacity for the predicted growth in traffic during the Local Plan period up to 2030.
- 1.5. This report sets out the proposed procurement strategy for the package of improvements in support of the development masterplan for Leighton.

- 1.6. This report also sets out the project development that has been undertaken to date and sets out the procurement path for delivery of the North West Crewe Package.

2. Recommendation

2.1. The Cabinet is recommended :

- i. To note that the latest total scheme cost estimate for the North West Crewe infrastructure package is £42 million.
- ii. To approve the procurement strategy as set out in paragraph 3.4 for delivery of the North West Crewe Package.
- iii. To authorise the Executive Director Place in consultation with the Director of Legal Services and the Portfolio Holder for Environment to enter into any necessary agreements (or supporting agreements) for the provision of any services required to proceed with all necessary technical work and consultations for the submission of a detailed planning application for the scheme works.
- iv. Subject to the appropriate planning approvals for the scheme works and the associated strategic housing sites and the necessary financial approvals by the Portfolio Holder for Finance and Communications and the Interim Executive Director of Corporate Services (Section 151 Officer) being in place; to authorise that the scheme be procured in line with the recommendations set out in the accompanying Procurement Strategy Report at Appendix 1 and authorise the Executive Director Place in consultation with the Director of Legal Services and the Portfolio Holder for Environment to procure the North West Crewe Package using the SCAPE Civil Engineering and Infrastructure Framework.
- v. To note that a Cabinet report will be coming forward with further recommendations on the funding strategy and which will set out the approval process for the release of funding to deliver the North West Crewe Package of works and that the funding from Cheshire East resources is subject to affordability and is therefore included in the Addendum to the approved Capital Programme.
- vi. Subject to approval of the funding strategy, the appropriate planning approvals for the scheme works and the associated strategic housing sites and the necessary financial approvals by the Portfolio Holder for Finance and Communications and the Interim Executive Director of Corporate Services (Section 151 Officer) being in place, to authorise the Executive Director Place in consultation with the Director of Legal Services and the Portfolio Holder for Environment to enter into any necessary agreements (or supporting agreements) for the delivery of the North West Crewe Package under a Delivery Agreement set out in the procurement route under paragraph 3.4 using the SCAPE Civil Engineering and Infrastructure Framework.

- vii. To note the continued use of the Council's nominated designer using the reach-back arrangement within the current Highway Services Contract to provide design and provision of any services within the scope of the relevant Highway Services Contract and subject to the necessary funding approvals to proceed with the completion of the detailed design and works information, documents and drawings to enable delivery of the works to deliver the North West Crewe Package of new infrastructure works.

3. Reasons for Recommendation

- 3.1. This strategic scheme is a package of measures in the Leighton area of Crewe which will enable the delivery of the Local Plan allocated strategic sites at Leighton West (850 homes - site ref LPS4), Leighton (500 homes - site ref LPS5). The scheme will accommodate the traffic impacts arising from planned housing growth in the North Crewe corridor, support the longer term aspirations for Bentley Motors, ease congestion issues in the area and improve access to Leighton Hospital.
- 3.2. The Council are owners of a significant element of the Leighton West site, so the development of this site will also generate a capital receipt.
- 3.3. The package of measures include:
 - a new north-south Spine Road to connect the east-west Link Road to the new hospital access and to provide access to the Leighton West strategic site;
 - a realigned Smithy Lane to connect the new roundabout above to the A530 and provide a new access to the hospital;
 - a new roundabout on Flowers Lane to serve the Leighton development site;
 - a new east-west Link Road to connect Minshull New Road to the A530; and
 - a remodelled junction between Flowers Lane and the A530 and Eardswick Lane.

A phasing plan (schematic) of the proposed highway infrastructure is included within the Procurement Strategy Report at Appendix 1.

Procurement Route:

- 3.4. For schemes of this nature and scale the Council has a number of options for the procurement of a suitably qualified construction contractor using the NEC Form of Contract, which is set out in the Procurement Strategy Report at Appendix 1.

- 3.5. The New Engineering Contract (NEC) is a family of standard contracts which stimulate good management of the relationship between the two parties to the contract.
- 3.6. The Target Cost type contract will provide a reasonable share of risks and incentivises all parties to maximise benefits to outcomes throughout the project; this will result in a competitive price with early certainty. A fully detailed scheme does not need to be in place in order to award under this type of contract pricing mechanism. This contract type also encourages efficiency and early completion, which will be particularly important for delivery of the North West Crewe Package.
- 3.7. Within the NEC Form of Contract the following options exist with regard to the degree of design and design advice that can be requested from the contractor. These options include:
- Design and Build Contract where the scheme is fully or partially designed by the contractor as part of the awarded contract;
 - Early Contractor Involvement (ECI) where advice is afforded to the design team in terms of project planning and buildability by the contractor and/or part of the project designed by the contractor; and
 - Construction only Contract where no design is carried out by a contractor and no design or buildability advice is given within the design and development process.
- 3.8. The type of project and current stage of project development to deliver the proposed package of new highway infrastructure supports the use of all three types of contract. To ensure that the infrastructure can be delivered prior to the housing an Early Contractor Involvement (ECI) Contract would be the preferred option for the form of contract. An ECI procurement route using the NEC Option C Target Cost form of contract to be negotiated after the completion of the planning process and subject to the necessary funding approvals to deliver the North West Crewe Package would give the Council some price and programme certainty as the design and construction programme is better developed and there is greater opportunity to reduce risk prior to starting the construction works through the inherent collaborative approach to developing the scheme with the contractor.
- 3.9. Approval is sought to procure the services of a construction contractor to provide construction planning and programming using Early Contractor Involvement (ECI) based on the SCAPE Civil Engineering and Infrastructure Framework to deliver the works for the North West Crewe package using an NEC Target Cost form of contract. The remaining options above do not provide the Council with programme certainty and would put at risk the delivery of the highway infrastructure to achieve the Council's ambitions for plan led growth as set out in the Local Plan as the

development of the key strategic housing and employment sites enabled by the highway infrastructure could not be demonstrated to be deliverable.

- 3.10. SCAPE is a public-sector owned organisation that has in place a number of national procurement frameworks for use by the public sector. The relevant framework for the North West Crewe Package is the Civil Engineering and Infrastructure Framework. It has four year duration and an overall value of £1.5 Billion and is available to all public bodies in the UK. The nominal project value for contracts is between £1m and £40m; however, SCAPE is not capped at that value and is being used on contracts up to £79m. It should be noted that the construction value of the North West Crewe Package of works is estimated to be £26.0m.
- 3.11. The SCAPE Framework is currently being used successfully by the Council for the procurement and delivery of the Crewe Green Roundabout scheme. Approval is sought to retain the services of the Designer using the current reach-back arrangement under the current Highway Services Contract and to progress the scheme to a detailed planning submission in Spring 2018. This will be subject to the necessary funding approvals.
- 3.12. The current SCAPE Civil Engineering and Infrastructure Framework is due to expire on 30th January 2019. There are three possible routes open to the Council to ensure continuity/completion of any SCAPE Civil Engineering project beyond January 2019, as follows:
 - i. The Council enters into a project delivery agreement (as in the normal SCAPE process on or before 30th January 2019;
 - ii. The Council utilises the NEC X23 clause whereby the Council can sign the project delivery agreement before or during preconstruction. There is no penalty payable by the Council if the Council decide the project does not proceed to construction. This NEC option mirrors the standard SCAPE process; or
 - iii. It envisaged that the new SCAPE Civil Engineering and Infrastructure Framework partner will be appointed in November 2018. Therefore for approximately 3 months (from November 2018 until the 30th January 2019) the two Civil Engineering Frameworks will be running concurrently. Consequently the Council will have a choice of Framework at that time. The Council can either choose to remain with the incumbent or choose to complete the project with the new Framework Partner.
- 3.13. Preliminary designs have already been developed more fully than is usual as a basis for pre-planning public consultation. These designs have informed consideration of procurement options for the works. Continuity of design input is considered to be a key factor in minimising risks and ensuring timeliness of the commencement of the construction works. For this reason, it is recommended that the Council retain the use of the Designer to continue their role as scheme designers under the Council's existing "reach-back" contractual arrangements with them.

- 3.14. The current Highway Services Contract expires in October 2018. The Council is currently undergoing a procurement exercise to appoint a provider for the provision of Highway Design, Maintenance and Construction Services. The appointment is due to transition from the current Highway Services Contract from April 2018. Should the current contract transition to a new provider as a result of the contract renewal process the Council can choose to continue with the services of the nominated designer until October 2018 to progress the scheme to a detailed planning submission. This will be subject to the necessary funding approvals for the completion of detailed design and works information to enable delivery of the North West Crewe Package. Thereafter the designer services would be provided by appointment of the Councils designer as a nominated sub-contract designer under the SCAPE Civil Engineering and Infrastructure Framework to provide designer services during the construction phase of the works. The SCAPE Framework allows for the use of such an arrangement and there are many examples of where a nominated designer has been incorporated in a scheme successfully delivered via the framework.
- 3.15. The proposal is subject to planning approval and all of the North West Crewe Package can be delivered in a single implementation phase. However, the scheme is capable of being delivered in separate phases and so the financial approvals detailed in section 7.3.6 of this report may be sought for the release of funding for individual phases of the package to align with the overall funding and housing delivery strategy.
- 3.16. The construction phase of the package, for the delivery of the north-south spine road, east-west link road, realigned Smithy Lane and associated junction improvements is estimated to cost approximately £26.0m.
- 3.17. The funding for the package of works depends on contributions from the nearby strategic development sites enabled by the delivery of the scheme works. These contributions will be obtained via planning obligations (S106 agreements or Community Infrastructure Levy) from the developers of these sites. The timing of the planning applications for these strategic sites, and therefore their delivery and the timings of these contributions is not yet known, so the recommendations are intended to make the delivery of the package of works conditional on agreements to these developer contributions being in place to give a degree of certainty of funding prior to entering into a commitment for delivery of the works.
- 3.18. A procurement timescale is given within the Procurement Strategy Report at Appendix 1.

4. Other Options Considered

Option -

- 4.1. In summary the following procurement options have been assessed to secure the services of a suitable contractor:

4.1.1. The use of a restricted OJEU procurement route.

The restricted procedure requires tenderers to prequalify by submitting a Selection Questionnaire (SQ) which limits the number of tenderers submitting a price. However, because of the SQ process this procurement method would be protracted in terms of programme, potentially delaying the start of the construction of the project on site and may not meet the funding requirements of any NPIF contribution in terms of required spend. This would expose the Council to the risk of underspend within the funding period.

4.1.2. The use of an open OJEU procurement route.

An open OJEU procedure is open to all contractors. This option was dismissed because of the potentially large number of tenderers to be assessed and the protracted tender procedure that would be required, potentially delaying the start of the construction of the project. A delay to the start of the construction phase may also miss identified potential funding windows of opportunity.

4.1.3. Using the Highways England Collaborative Delivery Framework (CDF).

North West Crewe Package with a current estimated construction cost of c. £26.0m would fall into the CDF Lot 3a high value construction work category ("schemes between £25m and £40m, may be extended to £300m"). Should the cost estimate of the works be less than the current estimate the scheme may fall into the scope of a lower value lot. Although CDF could potentially reduce the tender programme, it was not considered sufficient to allow construction of the project by the required date. There is a risk to the Council that Highways England may not allow access to the framework as they may wish to leave capacity to deliver their own projects within the £5bn OJEU limit. The framework will not be renewed until after November 2018. This procurement route will delay the programme as the Council will have to apply for access to the CDF with Highways England and subsequently run a tender process including compiling and issuing tender documentation, contractors' tender period and adjudication.

4.1.4. Cheshire East Council Highways Maintenance Framework.

The Council is procuring a new contract for the provision of Highway Design, Maintenance and Construction Services. Appointment of the successful tenderer and award of contract is expected to be at the end of April 2018. The new contract is available to the Council to deliver improvement schemes in design and construction up to a threshold value of £5.0m. The estimated construction cost of the package of infrastructure works for North West Crewe is £26.0m. The Council would therefore be excluded from using this procurement option for the services of a construction contractor.

5. Background

- 5.1. As a principal town Crewe was identified in the Local Plan as being required to accommodate in the order of 65ha of employment land and 7,700 new homes.
- 5.2. To contribute to the required housing supply, in North Crewe, strategic housing allocations were identified in the Local Plan at Leighton West, Leighton, Sydney Road, Broughton Road and Crewe Green, in addition to other previously committed sites in the corridor.
- 5.3. The “Leighton West” strategic site allocation (reference LPS4) for 850 homes and the “Leighton” strategic site allocation (reference LPS5) for 500 homes are both directly unlocked by the North West Crewe package of highway measures. Local Plan policies in place for both sites require highway improvements that need to be phased with the development of the site and also delivered through master-planning of the overall area. Local Plan policies also require both sites to contribute to the highway improvements. A Report on North West Crewe Package Scheme Delivery and Funding, seeking approval to complete the assembly of the necessary land and funding contributions and progress the scheme to a planning submission in Spring 2018 and finalise detailed design for all phases of the works including site investigation and any required early diversions of statutory undertakers apparatus to a maximum scheme budget of £2.53m, was presented to Cabinet on 5th December 2017.

6. Wards Affected and Local Ward Members

6.1. Wards Affected

- 6.1.1. Leighton Ward

6.2. Local Ward Members

- 6.2.1. Cllr. Derek Bebbington.

7. Implications of Recommendation

7.1. Policy Implications

- 7.1.1. It relates directly to the Council’s Corporate Plan; Outcome 2 – **Cheshire East has a strong and resilient economy.**
- 7.1.2. The recently adopted Local Plan Strategy is the Council’s most important tool for shaping development in Cheshire East over the period to 2030. The Strategy supports the Council’s priority of jobs-led growth. The plan has been developed to support the generation of jobs focused around Crewe High Growth City, the M6 Corridor and the

North Cheshire Science Corridor. In addition, there is provision for extended employment sites in our main towns.

- 7.1.3. As part of the Local Plan Strategy the Council identified in the Infrastructure Development Plan (July 2016) what infrastructure of strategic significance is needed to support the scale of development proposed and how such infrastructure can be provided. Infrastructure of strategic significance is defined as that which is over and above the normal provision that is part and parcel of developing a site.
- 7.1.4. The North West Crewe Package of schemes is in the Council's strategic highways programme and is included in the Infrastructure Delivery Plan.
- 7.1.5. The North West Crewe Package of new highways and junction improvements is closely linked to the delivery of significant numbers of new houses and align with the objectives of the Bentley Masterplan and is referred to as Local Plan Sites LPS4 Leighton West and LPS5 Leighton.
- 7.1.6. The North West Crewe Package aligns strongly to both the Economic Development Strategy and the Vision and Strategy for Economic Growth.
- 7.1.7. It is included in the Local Transport Plan 2015 Policy B2 – Enabling Development.

7.2. Legal Implications

- 7.2.1. The proposed North West Crewe Package of infrastructure works is subject to the Public Contracts Regulations 2015 (“the Regulations”) and therefore must be procured by way of a compliant procurement exercise, in accordance with those Regulations and the Council's Contract Procedure Rules. The service has engaged with Procurement officers and Legal teams and conducted an evaluation of the procurement options. This information is contained within the Procurement Strategy options Report accompanying this Report. The recommended option is to use the SCAPE Civil Engineering and Infrastructure framework. As outlined in the report the SCAPE framework is a public sector framework that has been procured in accordance with the Regulations. The Regulations allow contracting authorities to call off services and works from such framework agreements, as and when required, for a maximum period of four years, so long as the contracting authority's requirements are met by the framework and the authority has been identified within the OJEU notice. Further advice as the project is ongoing will be required on the precise terms of any NEC contract.

7.3. Financial Implications

- 7.3.1. In December 2017, the scheme was estimated to cost c£41.6m and Cabinet resolved at that meeting to recommend to the Council that the scheme costs be included in the Council's capital programme.
- 7.3.2. The scheme is projected to be funded by £12m of Council funding (inc prior years expenditure), approximately £15m of grant funding and approximately £15m of developer contributions and capital receipts.
- 7.3.3. The Council has been awarded £5m of the National Productivity Fund (Local Roads element) and has also been successful in securing a £10m grant from the Housing Infrastructure Fund however the terms of the grant are not yet known.
- 7.3.4. At this stage, developer contributions are anticipated to be secured via Community Infrastructure Levy (CIL) or Section 106 agreements for development.
- 7.3.5. The budget for the North West Crewe Package to progress to a planning submission and allow limited early statutory diversions is £2.53m, this is funded by Cheshire East resources and included within the main capital programme.
- 7.3.6. A budget of £39.9m is included within the 2018/21 Capital Programme Addendum. The funding from Cheshire East resources of £9.2m is subject to affordability. At the stage where the business case and funding strategy is sufficiently developed and the Cheshire East funding is deemed to be affordable the Portfolio Holder for Finance and Communications and the Interim Executive Director of Corporate Services (Section 151 Officer) will provide the additional approval for the scheme to proceed and form part of the main capital programme. The scheme is capable of being delivered in phases and so the financial approvals may be sought for the release of funding for individual sections of the package to align with the overall funding strategy and housing delivery.

7.4. Equality Implications

- 7.4.1. There will be no equality implications as a result of this recommendation.

Rural Community Implications

- 7.4.2. Completion of the project will ease congestion to the rural and facilitate movement across the Borough to the benefit of both urban and rural communities.

7.5. Human Resources Implications

- 7.5.1. There will be no human resource implications as a result of this recommendation.

7.6. Health and Wellbeing Implications

- 7.6.1. There will be no Health and Wellbeing Implications as a result of this recommendation.

7.7. Implications for Children and Young People

- 7.7.1. There will be no implications for children and young people as a result of this recommendation.

7.8. Overview and Scrutiny Committee Implications

- 7.8.1. There will be no scrutiny committee implications as result of this recommendation.

7.9. Other Implications (Please Specify)

- 7.9.1. There will be no other implications as a result of this recommendation.

8. Risk Management

- 8.1. Robust governance arrangements have been operating within the strategic Infrastructure project management framework and a risk register and issues log are in place, which include monitoring and effective control of identified risks and issues.
- 8.2. Three principal risks identified are safety in construction; timely completion and delivery within approved budget. They have all been considered in the selection, design development and construction planning and programming of the package of works.
- 8.3. The procurement route proposed is a risk minimising measure having been assessed using these principal risks as key criteria.

- 8.4. The retention of the current Principal Designer and Designer (Jacobs) for the scheme will militate against cost escalation and provide Value Engineering input to the optimum design solution for the works. The retention of the Designer will mitigate risk, saving time by maintaining continuity, retaining the Council's designer knowledge in full. The Designer is commissioned through a reach back arrangement under the existing Highways Maintenance Framework.
- 8.5. The current Highways Services Contract is due for renewal in October 2018 and tendering for the provision of Highway Design, Maintenance and Construction services to replace the current HSC is already under way. The Council has the option to extend the services of the current designer on a single tender basis if the current designer services are not extended through the use of the SCAPE Civil Engineering and Infrastructure Framework by the appointment of nominated Designer. Extending the agreement will ensure development of the North West Crewe Package of works can be taken up to contract award. This information is contained within the procurement strategy options report that will accompany this Report.
- 8.6. The appointment of a contractor for Early Contractor Involvement (ECI) in the pre-construction stage using the SCAPE procurement route will provide construction planning and programming expertise and will highlight mitigation opportunities on programme, cost and construction management and safety. Using Early Contractor Involvement via another procurement route will require the project to be more advanced and require detailed tendering to select a suitable contractor. This route may not prove beneficial to maintaining the services of the current designer through the existing reach-back arrangement as the Council may lose the opportunity of a nominated designer and the Council will lose valuable design knowledge if a new Designer was used.
- 8.7. The procurement route for the implementation and construction of the works is set out in the procurement strategy options report that accompanies this report.
- 8.8. The procurement route using the SCAPE Framework Contractor is based on the latest NEC Engineering and Construction Contract (ECC) Target Cost contract, incentivising the contractor to reduce costs to achieve a share of any gains resulting from an outturn cost below the Target.
- 8.9. The assumed funding from Section 106 agreements is not all secured so there remains a funding risk. Mitigation of this risk is underway via close working with the planning team and negotiations with developers to ensure that sufficient contribution will be secured.
- 8.10. The outcome of the two successful bids to the National Productivity Investment Fund and Housing Infrastructure Fund are now known although the specific conditions of the grants are not yet known. The project management framework adopted in the Strategic Infrastructure Service includes a gateway review process that identifies key points in a project

lifecycle where approvals are required. These review points will be subject to the specific conditions of the grants.

- 8.11. In addition, Local Enterprise Partnership (LEP) funding of £600k is sought as a contribution to the project as the Connect2 cycleway will go through the wider area. A business case to secure the funds is likely to be required to release this funding.
- 8.12. As discussed in section 3.16 above, the funding for the package of works depends on contributions from the nearby strategic development sites enabled by the delivery of the scheme works. These contributions will be obtained via planning obligations (S106 agreements or Community Infrastructure Levy) from the developers of these sites. The timing of the planning applications for these strategic sites, and therefore their delivery and the timings of these contributions is not yet known. If the council were to enter into agreements for delivery of the package of highway works before the details of these planning approvals and obligations are known, there would be a risk of an element of the scheme funding not coming forward as planned in the funding strategy, leaving the council potentially exposed to financial risk. To mitigate this risk, the recommendation is to make the delivery of the package of works conditional on agreements to these developer contributions being in place to give a higher degree of certainty of funding prior to entering into a commitment for delivery of the works.
- 8.13. Land for delivery of the scheme is dependent on dedication of the route corridor by planning condition when the applications for the strategic housing sites are determined by the council. Discussions with the prospective developers are underway on the basis that this condition will be in place. The landowner is a freeholder to land which is under option to a developer at Leighton West and is also a potential beneficiary to an agricultural tenancy on Cheshire East Council owned land at Leighton Green. Vacant possession can be obtained by cooperation and negotiation or by service of a notice. If notice needs to be served there is the potential this could take up to 2 years to settle.

9. Access to Information

- 9.1. The background papers relating to this report can be inspected by contacting the report writer.

10. Contact Information

Contact details for this report are as follows:

Name:	Chris Hindle
Designation:	Head of Strategic Infrastructure
Tel. No.:	01270 686688
Email:	chris.hindle@cheshireeast.gov.uk