

## SHEFFIELD CITY COUNCIL



## Individual Cabinet Member Report

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<b>Report of:</b>	Simon Green – Executive Director Place
<b>Report to:</b>	Cllr. Leigh Bramall
<b>Date:</b>	29 <sup>th</sup> March 2016
<b>Subject:</b>	Approval to call for tenders for pre-construction services for early phases of the Sheffield Retail Quarter.
<b>Author of Report:</b>	Nalin Seneviratne Director of Capital & Major Projects
<b>Key Decision:</b>	NO

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**Summary:**

This report is to seek approval of the strategy outlined for the procurement of a contractor to undertake pre-construction services for design and build works for early stages of the Sheffield Retail Quarter development, and to authorise the commencement of the first stage of this strategy which is to issue expressions of interest and engage the YORbuild contractors in the first stage of the tender process.

It should be noted that this procurement strategy is separate to the development partner procurement which is in the final stages of its process.

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**Reasons for Recommendations:**

The Council is currently undertaking the development process for delivery of the Sheffield Retail Quarter.

To mitigate risks on the project, it is prudent to engage with the construction market regarding cost and programme issues.

Discussions with potential tenants for the Sheffield Retail Quarter require this more detailed information to be obtained and hence the need to obtain construction contractor input at the earliest opportunity without the obligation to place any orders for works.

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**Recommendations:**

That the Cabinet Member:

Approves the strategy outlined in this report for the procurement of a contractor to undertake pre-construction services for design and build works for early stages of the Sheffield Retail Quarter development, and

Delegate's authority to The Director of Capital & Major Projects in consultation with the Director of Commercial Services to:

Commence the first stage of the procurement process by issuing expressions of interest and engaging the YORbuild contractors in the first stage of the tender process as set out in this report.

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**Background Papers: None**

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**Category of Report: OPEN**

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## Statutory and Council Policy Checklist

<b>Financial Implications</b>
YES Cleared by: Paul Schofield
<b>Legal Implications</b>
YES Cleared by: Joe Haslam
<b>Equality of Opportunity Implications</b>
NO Cleared by: Annemarie Johnston
<b>Tackling Health Inequalities Implications</b>
NO
<b>Human Rights Implications</b>
NO
<b>Environmental and Sustainability implications</b>
NO
<b>Economic Impact</b>
NO
<b>Community Safety Implications</b>
NO
<b>Human Resources Implications</b>
NO
<b>Property Implications</b>
NO
<b>Area(s) Affected</b>
Central Ward/City Centre
<b>Relevant Cabinet Portfolio Lead</b>
Cllr Leigh Bramall
<b>Relevant Scrutiny Committee</b>
Economic and Environmental Wellbeing
<b>Is the item a matter which is reserved for approval by the City Council?</b>
NO
<b>Press Release</b>
NO

## REPORT TO THE EXECUTIVE DIRECTOR PLACE.

### APPROVAL TO CALL FOR TENDERS FOR PRE-CONSTRUCTION SERVICES FOR EARLY PHASES OF THE SHEFFIELD RETAIL QUARTER.

#### 1.0 SUMMARY

- 1.1 This report seeks approval of the strategy outlined in this report for the procurement of a contractor to undertake pre-construction services for design and build works for early stages of the Sheffield Retail Quarter development, and, to authorise the commencement of the first stage of this strategy, which is to issue expressions of interest and engage the YORbuild contractors in the first stage of the tender process.
- 1.2 It should be noted that this procurement strategy is separate to the development partner procurement which is in the final stages of its process.

#### 2.0 WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE

- 2.1 The primary objective of the Council commencing the first stage of the procurement process and issue expressions of interest and engage the YORbuild contractors in the first stage tender, on the terms as set out in this report, is to support the successful delivery of the Sheffield Retail Quarter development
- 2.2 As previously reported the main Sheffield Retail Quarter projects objectives are to :
- 2.2.1 Ensure that the city centre has a retail and leisure offer that the people of Sheffield deserve and is comparable to the best in the United Kingdom.
- 2.2.2 Make a step change to the city centre and lift Sheffield up the national retail rankings.
- 2.2.3 Seek to regenerate a wider city centre area as a direct consequence of the investment commitment and opportunity provided by the Sheffield Retail Quarter project.

#### 3.0 OUTCOME AND SUSTAINABILITY

- 3.1 **Outcomes:** the outcome of this report is that the Council will commence a formal procurement process to enable engagement with the construction contractor market to assist the Council in assessing the cost and programme viability of the Sheffield Retail Quarter, and to move towards its delivery
- 3.2 **Sustainability:** as previously reported completion of the Sheffield Retail Quarter would make the city centre a more cohesive and sustainable

location to attract further investment. It will help the city centre become more sustainable in terms of economic activity by bringing improvements in social well-being and deliver building designed to minimise environmental impact

#### **4.0 BACKGROUND**

- 4.1 As the Council continues to lead on the delivery of the Sheffield Retail Quarter and progress discussions with potential tenants, cost and programme issues have been highlighted as an increasing risk.
- 4.2 In order to mitigate this cost and design risk it is prudent for the Council to now engage with the construction contractor market at the earliest opportunity for their input, but without any obligation to place/fund any order/building contract.
- 4.3 A procurement strategy has been prepared to seek a contractor, and this report seeks approval to commence the first stage of the procurement process and issue expressions of interest and engage the YORbuild contractors in the first stage of the tender process.
- 4.4 At the appropriate time authority will be sought for the necessary construction services on the Sheffield Retail Quarter through the Councils Capital Gateway processes, once finances and all other required Approvals are in place.
- 4.5 Three Council approvals will be required throughout the procurement process for a contractor to deliver the Sheffield Retail Quarter development works, these being:
  - 4.5.1 Approval 1 - to issue expressions of interest and engage the YORbuild tenderers in the first stage of the tender process. This is the approval being sought under this report.
  - 4.5.2 Approval 2 - to award 'preferred supplier status' and enter into a Pre-Commencement Services Agreement that defines their involvement. This will be through the Capital Gateway Process
  - 4.5.3 Approval 3 - to enter into a construction contract to implement the works. This will be a through the Capital Gateway Process following full approval of the scheme by Cabinet.

#### **5.0 PROCUREMENT STRATEGY**

- 5.1 It is proposed that the procurement process to identify a contractor (Approval 1) will follow a two-stage design and build process, with the contractor being selected from Lot 5 (works in excess of £10m) of the YORbuild2 framework.
- 5.2 The YORbuild2 frame work is a Construction Framework which has

been developed to provide an efficient and collaborative approach to the procurement of Construction Projects. YORbuild2 can be accessed by Local Authorities, Public Sector Bodies or Third Sector Organisations across the Yorkshire and Humber region, Sheffield LEP area, North East England and Lincolnshire.

- 5.3 The procurement process will be in two stages as final prices for the construction works are not sought through the initial market engagement.
- 5.4 During the first stage of the procurement process, a qualitative assessment sits alongside a financial assessment in which tenderers submit costs for their overheads for managing the works to completion against a notional construction value provided by the Council.
- 5.5 On the YORbuild2 framework, the contractors have already tendered their overhead rates to win their place on the framework and therefore the rates are fixed. However, some commercial adjustments can be made to these rates by each contractor in competition dependent upon scope.
- 5.6 Following this, the second stage can commence. However the Council will not be obligated to proceed to the second stage. Further approval will be sought prior to commencement of the second stage of the second stage of the tender process. At the second stage a preferred bidder is selected and taken forward to work with the Council to complete the design and obtain competitive prices from the market for each of the works packages necessary to complete the Sheffield Retail Quarter
- 5.7 These prices are then evaluated by the Council and compiled into a contract sum for acceptance by the Council ahead of the contract for the works being let.
- 5.8 It is important to note that unless specifically contracted, the Council has no obligation to undertake the works should the second stage tender be unacceptable or if the project is no longer required to go ahead. Further approval will be sought prior to award of any works contract
- 5.9 The two stage design and build process has been selected for the following reasons:
  - 5.9.1 Market conditions – contractors generally steer away from engaging in competitions with significant risk and where they have not had the opportunity to be involved in the development of the works package.
  - 5.9.2 Early contractor involvement – the Sheffield Retail Quarter project is programme sensitive and therefore a contractor's input into the design development ahead entering into contract will assist in reducing risk during the works through a comprehensive programme review from a construction expert.

- 5.9.3 Reducing commercial risk – early contractor involvement will also provide greater certainty on cost through market testing of works packages within their supply chain that will enable the design to be tailored to the capital investment set out in the development appraisal whilst meeting the proposed tenant’s requirements.
- 5.9.4 Early works – should it be agreeable and provide a benefit to the programme, the selected contractor, subject to further approval could be used to undertake discrete early works packages ahead of the commencement of the main works to reduce programme risk.

## **6.0 RISK**

- 6.1 Given that the Council is just seeking to issue expressions of interest and engage the YORbuild contractors in the first stage tender process the risk to the Council is considered to be very low.

## **7.0 LEGAL IMPLICATIONS**

- 7.1 The council is proposing to use an existing framework agreement – the YORbuild2 framework. YORbuild2 is a framework agreement which is accessible to the Council and has already been procured in compliance with the Public Contract Regulations 2015 (PCR). Provided that the council adheres to the terms of the framework and the PCR there should be no significant legal implications arising from its use for the purposes outlined in this report.
- 7.2 The form of build contract used under the YORbuild2 framework is consistent with central government guidelines on collaborative working in construction.

## **8.0 FINANCIAL IMPLICATIONS**

- 8.1 There should be no direct financial implications arising from this first stage decision. Any resource required by the Council to carry out this stage is already provided for in either the General Fund or Sheffield Retail Quarter project budget. Contractors bidding will do so at their own risk and no financial payment is due to them at this stage
- 8.2 Approval for the subsequent stages of this procurement process will have financial implications and these will require further approval as part of the Councils Capital Gateway Approval process.

## **9.0 EQUALITY OF OPPORTUNITY**

- 9.1 No positive or negative equality impacts have been identified as a result of the recommendations of this report.

## **10.0 ENVIRONMENTAL SUSTAINABILITY**

- 10.1 Environmental and sustainability matters are and will continue to be

incorporated into the planning process for the Sheffield Retail Quarter development

## **11.0 HUMAN RIGHTS ISSUES**

11.1 There are not thought to be any human rights implications arising from the proposals set out in this report

## **12.0 CONSULTATION**

12.1 Public consultation has and will continue to take place as part of the planning process for the Sheffield Retail Quarter project.

## **13.0 ALTERNATIVE OPTIONS CONSIDERED**

13.1 The Council has considered alternative tender options but these are not considered suitable or feasible in this instance. The other options considered where:

13.2. Open tender – as the project is likely to be publicly funded, the procurement process must be compliant with the Public Contracts Regulations 2015. However these Regulations specify a minimum time for the tender period. This is in excess of the time allowed in the programme and therefore in this instance an open tender is not considered feasible.

13.3 SCAPE – SCAPE is a Public Contract Regulations compliant framework and is similar to YORBuild, however, this framework can only be used for works up to £30m in value and therefore would not be suitable for the Sheffield Retail Quarter works.

## **14.0 REASONS FOR RECOMMENDATIONS**

14.1 The Council is currently undertaking the development process for the Sheffield Retail Quarter.

14.2 To mitigate risks on the project, it is prudent to engage with the construction market regarding cost and programme issues.

14.3 Discussions with potential tenants for the Sheffield Retail Quarter require this more detailed information to be obtained and hence the need to obtain construction contractor input at the earliest opportunity without the obligation to place any orders for works.

## **15.0 RECOMMENDATIONS**

That the Cabinet Member:

15.1 Approves the strategy outlined in this report for the procurement of a contractor to undertake pre-construction services for design and build works for early stages of the Sheffield Retail Quarter development, and



- 15.2 Delegate's authority to The Director of Capital & Major Projects in consultation with the Director of Commercial Services to:
  - 15.2.1 Commence the first stage of the procurement process by issuing expressions of interest and engaging the YORbuild contractors in the first stage of the tender process as set out in this report.

Simon Green  
Executive Director, Place  
23rd March 2016