

REPORT TITLE: KINGS WALK CONTRACT AWARD

9 MARCH 2023

REPORT OF CABINET MEMBER: Cllr Martin Tod, Leader and Cabinet Member for Asset Management

Contact Officer: Veryan Lyons Tel No: 01962 848596 Email vlyons@winchester.gov.uk

WARD(S): ALL WARDS

PURPOSE

Central Winchester Regeneration (CWR) is a once in a lifetime opportunity to transform the centre of our historic city, bringing homes for local families, providing jobs for local people, making a visit to this heritage city one which will be remembered. The council has a unique opportunity to bring forward sensitive development, adapting to the challenges faced by a new generation and critically to be delivered through the lens of responding to climate change.

Kings Walk forms part of the meanwhile uses for the Central Winchester Regeneration and implementation of meanwhile uses was recognised in the Central Winchester Regeneration (CWR) Supplementary Planning Document (SPD), which was adopted in June 2018.

The council has proposals to carry out improvement works at Kings Walk to bring activity and positive change to the area but, following a competitive procurement exercise, was unable to secure a contractor to carry out the work.

The council has subsequently, through direct discussions, found a contractor that will carry out a revised scope of work and this report seeks Cabinet approval for an exception to the council's Contract Procedure Rules to enable a direct contract award to enable the revised works to progress.

RECOMMENDATIONS:

That Cabinet Committee: Regeneration

1. Approves an exception to the council's Contract Procedure Rules in accordance with paragraph 41 to enable a direct award of the contract to Leaves Construction, subject to agreement to carry out the revised scope of works within the approved budget.
2. Authorise the Head of Programme Central Winchester Regeneration, in consultation with the Service Lead – Legal, to arrange for all the necessary agreements with the provider to be entered into on behalf of the council in accordance with Article 14 of the council's constitution.
3. Approves expenditure of up to £301,000 under Financial Procedural Rule 7.4.

IMPLICATIONS:1 COUNCIL PLAN OUTCOME

1.1 Tackling the Climate Emergency and Creating a Greener District

The city council has declared a Climate Emergency and addressing the climate crisis and reaching carbon neutrality is the city council's overarching priority. The proposed works at Kings Walk will contribute towards achieving the council's climate targets by keeping the existing building in use and bringing biodiversity net gain to the site.

1.2 Homes for all

1.3 Although there is no opportunity to bring forward residential during the meanwhile works at Kings Walk, the long-term proposals will work to deliver a variety of residential dwellings which will help to deliver the overall vision set out in the CWR SPD of a vibrant, mixed-use quarter.

1.4 Vibrant Local Economy

Following the pandemic new challenges face our business community. Our businesses need our support as they work to adapt in order to tackle increasing costs, labour shortages, climate change and the changing face of the high street. The work to improve Kings Walk will help to support existing local independent businesses in occupation and provide additional interest.

Living Well

1.5 We want all residents to live healthy and fulfilled lives, to feel safe and secure in their neighbourhood, and enjoy the recreational and cultural opportunities that the district offers. The council is committed to investing in our public spaces and working hard with partners to deliver pride in place for our residents. The work at Kings Walk will provide additional opportunities for people to work and play in the centre of the city.

1.6 Your Services, Your Voice

1.7 The council is committed to ensuring that everyone from everywhere in the district, every background, income or life circumstance has the opportunity to make their voice heard, and that these views are carefully considered and acted upon. Proposals for the works at Kings Walk incorporate views expressed through wider CWR consultations and in discussions with the Kings Walk tenants.

2 FINANCIAL IMPLICATIONS

- 2.1 The budget for the meanwhile uses strategy (set out in CAB3281 and CAB3303) totals £385,000 and spend for the project was approved to deliver short term improvement works to the ground floor and associated public realm at Kings Walk.
- 2.2 Over the period of time it has taken to secure a contractor to carry out the works, costs have risen significantly and as a result the scope of work has been revised and no longer includes activation of the roof top of the former middle brook street multi-storey car park or creation of event space through activation of the loading bay.
- 2.3 From the £385,000 approved budget, £84,000 has been spent so far on architectural designs and drawings; emergency works to buildings / structure; planning fees; and lighting. The remaining budget for the project is £301,000 and this will be used to deliver the external greening; lighting; internal works alterations; enhanced connectivity and visibility to the High Street; and the creation of the courtyard garden.
- 2.4 Given the change in scope of the works, authority to spend is being re-sought.
- 2.5 The cost estimate for the revised works is currently £329,000 but a value engineering exercise will be undertaken ahead of entering in to the contract to ensure that no additional budget is required.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 In accordance with the council's Contract Procedure Rules (CPR's), the opportunity was originally tendered using a Hampshire County Council Framework agreement for minor works.
- 3.2 Despite initial supplier interest, zero bids were received. Feedback was requested from suppliers regarding their lack of response. The reason cited principally being the inability to source subcontractors.
- 3.3 The contract is primarily for a series of 'works' to refurbish Kings Walk. The proposed contract is significantly below the threshold at which works contracts must be competitively tendered in accordance with the Public Contract Regulations and the council is therefore not bound by the regulations.
- 3.4 Following an appraisal of procurement options with the service area, and in part due to timescales, a direct award has been identified as the preferred option, for the reasons set out in sections 11 and 12 below.
- 3.5 The council's Contract Procedure Rules provide that an exception to the CPR's can be made in exceptional circumstances, one of which is where it can be demonstrated that by applying the CPR, it would not be possible to satisfy the best interests of the Council in terms of delivering social, economic or well-being benefits.

In the present case, a benchmarking exercise of costs proposed by Leaves Construction has been undertaken to ensure submitted fees are competitive and the council will work with the contractor to ensure that the regeneration work is undertaken sustainably. The proposed works will enable the council to maintain income from the existing tenants, support the tenants in the challenging economic times and, by keeping the building occupied, prevent further deterioration and vandalism of the building in the short to medium term. Therefore, timely completion of the works is a key factor. For these reasons to appoint Leaves Construction directly is in the best interests of all stakeholders.

4 WORKFORCE IMPLICATIONS

- 4.1 Existing council resource is considered sufficient to progress and manage the contractor to complete the works.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 The proposal for the council to bring forward the ground floor refurbishment of Kings Walk, as shown in appendix A, is a priority and is intended to create a sense of purpose and to kick start transformation and activity in the city centre ahead of the longer term CWR development.
- 5.2 The proposed works will enable the council to maintain income from the existing tenants, support the tenants in the challenging economic times and, by keeping the building occupied, prevent further deterioration and vandalism of the building in the short to medium term. This is a consideration in making the decision to adopt the recommendations as the council is experiencing increasing costs due to dealing with an increase in antisocial behaviour and vandalism across the property portfolio.

6 CONSULTATION AND COMMUNICATION

- 6.1 Press and social media activity was undertaken to share the proposed plans with the public and to announce the appointment of the architectural practice, Studio Multi, including press releases with accompanying CGI images.
- 6.2 Follow up meetings were then held with tenants in May 2022 to present the final proposals and demonstrate how feedback had been incorporated. A meeting was also held with tenants at Kings Walk to discuss the revisions to the final plans in February 2023.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 The council has declared a Climate Emergency and is committed to sustainable development. Our Carbon Neutrality Action Plan ensures all

council activity is undertaken with a view to supporting our commitment to achieving net zero carbon emissions. The council will ensure that the Kings Walk regeneration works is undertaken sustainably.

- 7.2 The proposal states a creative re-use of buildings and landscape, with sustainable materials, creation of a new eco system, working with local businesses, rainwater re-use for irrigation, solar power for lighting where viable, and the introduction of planters and greenery on entrances to Kings Walk and within the courtyard.

8 PUBLIC SECTOR EQUALITY DUTY

- 8.1 The council has a statutory duty under section 149 of the Equalities Act 2010 that requires all public bodies to consider the needs of all individuals in their day-to-day work – in shaping policy; in delivering services; and in relation to their own employees. The Public Sector Equality Duty (PSED) is a duty on public bodies and others carrying out public functions.
- 8.2 Consultation and engagement to date on the wider concepts for Kings Walk have not given rise to representations that there will be adverse effects from the proposed works on protected groups.
- 8.3 The appointed contractor will have due regard for the duties of the council in relation to PSED but it is considered that further action is not necessary at this stage.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 *None.*

10 RISK MANAGEMENT

Risk	Mitigation	Opportunities
<p><i>Financial Risk</i></p> <p><i>Cost of works exceed budget available</i></p>	<p>Close monitoring of budget, potentially limit scope of works and value engineering to meet budget</p>	<p>Opportunity to show progress and change in the CWR area</p>
<p><i>Exposure to challenge</i></p> <p>Legal challenge to additional works being awarded direct to Leaves</p>	<p>The opportunity was originally tendered via a suitable framework</p>	<p>There is a requirement in a timely manner to undertake the works and</p>

Construction (i.e. without a competitive procurement exercise being undertaken).	compliant with Council Procedure Rules. The contract is below the UK threshold for 'works' as detailed in section 3.	it is in the best interests of the council to appoint direct rather than undertake a further procurement process.
<i>Reputation</i> Council's reputation should a challenge be forthcoming after the variation has been issued.	The opportunity was tendered via a suitable framework compliant with Council Procedure Rules – no bids were submitted – comms prepared around progressing the CWR project	Opportunity to announce progress and change in the CWR area

11 SUPPORTING INFORMATION:

Background

- 11.1 Kings Walk forms part of the meanwhile uses for the Central Winchester Regeneration. An architect was appointed, following a procurement exercise, to develop proposals to carry out improvement works to support the meanwhile use strategy. The council subsequently carried out a procurement exercise to find a contractor to implement the proposals
- 11.2 Following an initial expression of interest, 5 companies were interested in conducting the works, but no bids had been received at the end of the procurement process in September 2022. Following discussions with the procurement team, conversations were held with the bidders to ascertain the reasons why a tender was not submitted. The predominate reasons were, having trouble getting sub-contractors quotes, lack of interest from sub-contractors and being too busy currently. Other councils have advised of similar issues. Therefore, no contractor is in place to conduct the works and proposals were sought on how to proceed.
- 11.3 An options appraisal was carried out by the council's procurement team and the service area, section 12 outlines the other options considered and rejected. A direct award was identified as the preferred option as detailed in section 3.
- 11.4 Leaves Construction were approached and have provided a cost estimate for the works as outlined in section 2. Benchmarking work against the figure provided by Leaves Constructing has been carried out, demonstrating the

best choice for value for money would be to award the contract to Leaves Construction.

- 11.5 The approval to directly award Leaves Construction with the contract is therefore required.

12 OTHER OPTIONS CONSIDERED AND REJECTED

- 12.1 Retendering the works using a different framework. Whilst there is the possibility that different contractors on another framework may provide us with tenders, there is no guarantee that a tender would be received, and another significant period of time could be lost to receive the same result. Other councils have advised of similar issues of zero bids being submitted. Furthermore, retendering on the same framework could result in the contractors on the framework submitting uncompetitive pricing as it would be clear that no tenders were previously received.
- 12.2 Contracting out individual pieces of work. By simplifying the works to a particular trade, the probability of receiving a tender increases. As per the previous procurement exercise, managing and/or obtaining quotations from sub-contractors was the predominate reason why tenders were not being submitted. Also, this method places the burden of managing multiple sub-contractors onto WCC, which would require additional resources to manage, further inflating the total price for the project.
- 12.3 Do nothing: The reason for progressing at pace with the meanwhile use works is to bring improvements to the area as quickly as possible to bring a level of expectation and confidence in the local community and wider market. The changes will act as a test for the longer-term vision for Kings Walk and start to bring activity to the area to pave the way whilst reducing the decline and working to combat the incidents of antisocial behaviour. For this reason, the option not to progress the short-term works has been discounted.

BACKGROUND DOCUMENTS: -

Previous Committee Reports: -

CAB3303 CWR Strategic Outline Business Case – July 2021

CAB3281 CENTRAL WINCHESTER REGENERATION (CWR) Development Proposals and Delivery Strategy

Other Background Documents: -

Planning approval 22/01681/FUL

Planning approval 22/01683/FUL

APPENDICES:

Appendix A: Kings Walk Proposal.