

OFFICER DELEGATED DECISION 25 AUGUST 2020

Report title: Viability Assessments for Planning Applications

Wards: All

Portfolio: Councillor Matthew Bennett, Cabinet Member for Planning, Investment & New Homes

Report Authorised by: Eleanor Purser and Sara Waller: Strategic Directors for Sustainable Growth and Opportunity

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Report summary

The National Planning Policy Framework says that plans should be deliverable and that the sites and scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.

Lambeth Council, through the exercise of its Development Management function, seeks to ensure that future development within the borough achieves the highest standards of sustainable design and construction and subsequent operation as well as ensuring promotion of economic growth. The types of development requiring viability assessment can provide in return, as well as affordable housing, millions of pounds in Section 106 contributions and Community Infrastructure Levy (CIL) payments to the Council. These are therefore highly strategic and important developments.

Finance summary

The projected cost to the Council of this contract is £50,000 per annum which can be covered from existing revenue budgets.

Recommendations

1. To approve the award of Avison Young/ GVA Grimley as a non-exclusive provider of viability assessments for the Planning, Transport and Sustainability service (PTS) over a three year period from 15 June 2020 until 14 June 2023 for the estimated contract value of £150,000, with the option to extend for one year for an estimated cost of £50,000 – totalling £200,000.
2. To note the award of the provider from 15 June to 24 August 2020.

Reasons for Exemption from disclosure

The accompanying part II report is exempt from disclosure by virtue of the following Paragraphs of schedule 12A to the Local Government Act 1972:

3. Information relating to the financial or business affairs of a particular person (including the authority holding that information).

1. CONTEXT

1.1. Planning is a statutory function. Lambeth, as a central London Authority, deals with a wide range of planning applications; ranging from large scale redevelopment projects in the London Plan designated Waterloo and Vauxhall opportunity areas; to estate renewal schemes; smaller scale residential development/conversions; to residential extensions and alterations. Viability assessments are submitted in support of planning applications to show what can be delivered by the development. Development viability is a process of assessing whether a site is financially viable by looking at whether the value generated by a development is more than the cost of developing it.

1.2 Due to the complexity and variances that are inherent in viability assessments, Planning Practice Guidance from the Ministry for Housing, Communities and Local Government (MHCLG) (24 July 2018) states that:

“In order to improve clarity and accountability it is an expectation that any viability assessment is prepared with professional integrity by a suitably qualified practitioner and presented in accordance with...this National Planning Guidance.”

As well as meeting government objectives this requirement supports the Council’s own Borough Plan in that it demands transparency in approach (integrity) as well as encourages value for money.

1.3. The affordable housing and transport infrastructure secured with developments will contribute towards the inclusive growth priority. The community facilities secured or supported through development contributions will support the “Strong and sustainable neighbourhoods” priority. The educational funding and apprenticeship places agreed as a part of the planning permissions will contribute to the reducing inequality priority.

1.4. The National Planning Policy Framework says that plans should be deliverable and that the sites and scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. It also says that plans should be prepared positively in a way that is both aspirational and deliverable. National Planning Guidance sets out the Government’s recommended approach to assessing viability for planning applications.

1.5. This is a Procurement Report.

2. PROPOSAL AND REASONS

2.1 Following a mini-competition from the CCS framework agreement RM3816 it is proposed to award a contract for the provision of planning viability assessments to Avison Young/ GVA Grimley for a three year period with an option to extend for one year with the total maximum estimated contract value of £50,000 per annum (total cost of £200,000 including the optional extension periods).

2.2 Since the procurement process, the service has agreed to revert to its former approach of only paying directly for costs where the Council must cover those costs. In instances where applicants are covering the cost of a viability assessment, the service is moving back to the old process, which is the same as that applied by other councils. This means that rather than the council paying the initial invoice generated by the supplier and subsequently having additional administration costs in raising sales invoices to applicants along with the associated chasing of

debts, the applicant will pay the supplier directly, with an instruction agreement between applicant, supplier and council to ensure the council is kept as lead in the assessment process. A standard form for officers to use per engagement has been drawn up to this process; the consultancy tracker will still be populated with the details of all instructions. This will reduce the level of unnecessary and costly administration created by the approach introduced during 2017 and will ensure the council provides the best service with the most efficient use of funds for its residents and businesses.

- 2.3 As part of the mini-competition the providers on the CCS framework RM3816 Lot 1 were invited to submit proposals via e-tendering system EU Supply.
- 2.4 This is an OJEU compliant procurement route. With 12 suppliers on the CCS framework agreement Lot 1, a mini competition provided better value for money allowed the council to select the most suitable provider that met Lambeth’s requirements, undertaking the complex and wide varying requirements of viability assessments. The percentage split that the bids were assessed on was 65% Quality and 35% Price. The quality evaluation was undertaken by an Evaluation Panel of 3 panel members and Quality scores were agreed through a process of consensus. The Price scores were calculated using a formula.
- 2.5 Three suppliers submitted bids as part of the mini-competition and Avison Young/ GVA Grimley was awarded the highest score. Table below provides a summary of the bidder’s scores:

Bidder	Maximum score	Avison Young/ GVA Grimley	Supplier B	Supplier C
TOTAL score (Quality + Price)	100%	97.00	93.88	81.51

- 2.6 Any advisor for these assessments needed to be able to advise the Planning service on the quality and accuracy of key inputs/values and outputs of draft viability assessments at pre-application stage and submitted viability assessments upon submission of planning applications. Advice of potential amendments (to inputs/costs/values) which could further improve the performance of the development are also relevant. Advice would also be required in respect of planning obligations for review mechanisms that would ensure the delivery of the highest levels of affordable housing delivery as well as standards of development.
- 2.7 The process sought to ensure that the supplier had an expertise in the subject by way of a strong, solid understanding of the process and relevant policies and guidance around viability and associated topics. The service sought assurance that the supplier had a an excellent understanding of the way in which review mechanisms are used to encourage development to be implemented and how review mechanisms can help deliver more affordable housing than secured in the planning permission. The successful supplier met all the above and demonstrated a clear track record of working with Local Authorities on viability. Overall, the results of the procurement indicated that Avison Young/ GVA Grimley had an excellent knowledge of the relevant guidance required, and the approach detailed in their response met all the requirements that would be expected and demonstrated a strong team in place to undertake the contract - providing confidence in terms of service delivery.
- 2.8 The successful supplier also indicated that they had a clear methodology in place for monitoring responses and dealing with resubmissions so that up to date information would be

used saving time and ensuring an effective cost management approach. This therefore illustrated that the council would be ensuring value for money and the best use of its financial resources.

- 2.9 In terms the supplier's approach to GDPR, IT security, business continuity – a clear road map was provided which ensured for early warning notifications for personnel changes, as well as ongoing training being provided.

Contract Management

- 2.10 The contract will be managed by officers within the Planning, Transport and Sustainability service with the overall responsibility for the contract falling with the Director of Planning Transport and Sustainability (or successor role).
- 2.11 A series of timeframes and expected performance returns are to be monitored using the existing consultancy tracker document that the service uses. The contract will have key response times agreed set within it. Finance and invoicing monitoring information is included within the tracker.
- 2.12 A nominated officer from the PTS service will convene contract meetings as required and ensure each project is completed to agreed contract frameworks.

3. FINANCE

- 3.1 The report recommends that Avison Young/ GVA Grimley are awarded the non-exclusive three-year contract with the option to extend for a further year to undertake viability assessments. It's proposed that the contract commences on the 15 August 2020.
- 3.2 The expected total revenue value of the contract is £50,000 per annum and will be funded by existing resources. The maximum total value of the contract is £200,000.
- 3.3 The Council has the obligation to fund certain viability assessments which fall outside the responsibility of the developers, for example, if there is a planning appeal. It is estimated that the cost to the Council in these circumstances is approximately £50,000.
- 3.4 When the obligation to fund viability assessments lies with the developers, the costs and choice of suppliers are independent of the recommended contract.

4. LEGAL AND DEMOCRACY

- 4.1 Calling off contracts from legitimately procured framework agreements meets the requirements of both the Contract Standing Orders and the Public Contracts Regulations 2015 provided the Council complies with the call-off terms and was named or was part of an identifiable group cited in the original contract notice. Call-off contracts can continue after the framework agreement itself has expired provided that the purpose is not to distort competition.
- 4.2 The Council's Constitution requires that all key decisions, decisions which involve resources between the sums of £100,000 and £500,000, and important or sensitive issues, must be published on the website for five clear days before the decision is approved by the Director or Cabinet Member concerned. Any representations received during this period must be considered by the decision-maker before the decision is taken.

5. CONSULTATION AND CO-PRODUCTION

5.1 Consultation has taken place by way of the initial business case and the procurement board report of 2019. The various comments and views have been considered and included throughout this process and should be referred to in the previous reports and associated business case.

6. RISK MANAGEMENT

6.1 Continuous provision is required and it needs to be ensured that the service is secured from a recognized high reputational company which would protect the council from the potential of appeals and associated costs.

6.2 The main risks that impede on the successful delivery of this procurement and contract are:

Table 1 – Risk Register

Item	Risk	Likelihood	Impact	Score	Control Measures
1	Failure to deliver in timescales required	3	8	24	Management of contract ensuring regular quarterly reviews.
2	Risks of delivery in Covid19 climate	2	2	4	Supplier has a large pool of expertise to call and much of this work can be desk based with any virtual site visits facilitating where required.

Key

Likelihood	Very Likely	4	Likely	3	Unlikely	2	Very Unlikely	1
Impact	Major	8	Serious	4	Significant	2	Minor	1

7. EQUALITIES IMPACT ASSESSMENT

7.1 An Equalities Impact Assessment (EIA) was undertaken in 2019 as part of this procurement process Following initial scoping for equality relevance and impact it is not considered that any groups that would fall into the categories relating to impact assessments would be adversely affected by this procurement.

7.2 The Policy and Communications team discussed the EIA requirement for this procurement. It was agreed that a separate EIA was not needed but that the key elements relevant to this procurement should be highlighted within this report.

7.3 The procurement of this contract for a development viability assessment service will contribute towards ensuring that development within the borough continues to bring positive benefits.

7.4 The contract will provide Lambeth's planners with access to the expertise to scrutinise the viability of proposed developments within the borough and, where necessary, to challenge the assumptions and calculations put forward. This will help to ensure that the full benefits

required to make the development acceptable in planning terms are obtained, are secured through CIL and S106 provisions.

- 7.5 This procurement is anticipated to contribute positively toward the Future Lambeth Borough Plan. Specifically, the affordable housing and transport infrastructure secured with developments will contribute towards the inclusive growth priority. The community facilities secured or supported through development contributions will support the “Strong and sustainable neighbourhoods” priority and the educational funding and apprenticeship places agreed as a part of the planning permissions will contribute to the reducing inequality priority.
- 7.6 Similarly there will also be benefits secured through the CIL and S106 provisions in line with the Lambeth Equality Commission 2017 report and recommendations, particularly to the education and learning priority in the form of funding for educational facilities, and the income and employment priorities, in terms of apprenticeships secured and the long term benefits that will bring to employment within the borough.
- 7.7 There are no negative equality impacts foreseen from this procurement.

8. COMMUNITY SAFETY

- 8.1 There is no anticipated impact on crime and disorder through the proposed contract

9. ORGANISATIONAL IMPLICATIONS

Environmental

- 9.1 Legislation has tightened around the assessment of planning applications with new climate related policy now forming part of the determination process. Large developments requiring viability assessments will inevitably need to meet the relevant legislation.

Health

- 9.2 Not applicable

Corporate Parenting

- 9.3 Not applicable

Staffing and accommodation

- 9.4 Not applicable

Responsible Procurement

- 9.5 Lambeth’s Responsible Procurement Policy will be addressed by:
- a. Ensuring viability assessments take into account relevant planning linked legislation around reducing carbon impact and encouraging use of sustainable resources; and,
 - b. Viability assessments can link in to and support the Council’s Borough Plan outcomes by feeding into negotiations that link to encouraging jobs and sustainable growth and safer communities.

Good Quality Jobs with Fair Pay and Decent Working Conditions

- 9.6 The supplier will be required to pay the London Living Wage to all its staff. There is no anticipated impact on crime and disorder through the proposed contract.

Quality Apprenticeships, targeted Employment for Lambeth residents and Lambeth Priority Group

- 9.7 Consideration has been given to provision through this contract of targeted employment opportunities for disabled residents, residents with mental health issues, and residents who are long term unemployed. Any application requiring viability assessments would require a Section 106 agreement; these are hugely beneficial in terms of a wide range of additional provision for the community.

10. TIMETABLE FOR IMPLEMENTATION

- 10.1 The table below details the stages and deadlines for implementing the recommendations:

Activity	Proposed Date
Publication on Decisions online	17.08.20
End of Publication	24.08.20
Officer Decision	25.08.20

AUDIT TRAIL				
Consultation				
Name and Position	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillor Matthew Bennett	Cabinet Member for Planning, Investment & New Homes	17/05/19	04/06/19	
Eleanor Purser/Sara Waller, Strategic/Director	Sustainable Growth and Opportunity	16/06/20	01/07/20	
Matthew Gaynor, Finance	Finance and Property	15/04/20	30/05/20	Recommendations page 1 and Section 3
Michael O'Hora, Legal Services	Legal and Governance	27/05/20	28/05/20	4 and appendix
David Rose, Democratic Services	Legal and Governance	15/04/20	07/05/20	
Rob Bristow, Director Planning Transport and Sustainability	Sustainable Growth and Opportunity	Through out process	10/06/20	

REPORT HISTORY	
Original discussion with Cabinet Member	04.07.19
Report deadline	N/A
Date final report sent	27.07.20
Part II Exempt from Disclosure/confidential accompanying report?	Yes
Key decision report	No
Date first appeared on forward plan	N/A
Key decision reasons	N/A
Background information	National Planning Policy Framework Borough Plan Planning Practice Guidance (MHCLG)
Appendices	N/A

APPROVAL BY OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board, and taken account of their advice and comments in completing the report for approval:

Signature: _____ **Date:** _____

Post: Catherine Neal,
Acting Head of Service for Business Delivery and Investment Monitoring

I approve the above recommendations:

Signature: _____ **Date:** _____

Post: Eleanor Purser and Sara Waller,
Strategic Directors for Sustainable Growth and Opportunity