

**REPORT TO:** CABINET

**DATE:** 17 SEPTEMBER 2015

**TITLE:** HARLOW ENTERPRISE ZONE – LONDON ROAD NORTH DEVELOPER PROCUREMENT

**PORTFOLIO HOLDER:** COUNCILLOR TONY DURCAN

**LEAD OFFICER:** MALCOLM MORLEY, CHIEF EXECUTIVE  
(01279) 446000

**CONTRIBUTING OFFICER:** ANDREW BRAMIDGE, PROJECT DIRECTOR  
(01279) 446410

**This is a Key Decision**

**It is on the Forward Plan as Decision number I004567**

**Call-in Procedures may apply**

**This decision will affect no ward specifically.**

**RECOMMENDED** that the Council extends an existing contract to provide advice and support to the Council on the procurement process to appoint a development partner for the construction of a new Business/Science Park at London Road North, Harlow using the SELEP funding allocated to support the development of the Enterprise Zone. This contract will operate until 31 March 2016 and be capped at a maximum sum of £100,000.

#### **REASON FOR DECISION**

- A** To progress the appointment of a development partner to build and operate a new Business/Science Park on the land owned by the Council at London Road North, Harlow.
- B** To secure advice on the detail of the procurement process, the proposals being received from developers (and in particular the financial proposals), market advice on development models and advice on the modelling of future business rate income and how this might be used for investment in the development.
- C** The current contractor was appointed in April 2015 under a single tender action approved via a waiver of Contract Standing Orders to facilitate the procurement process. However, the ultimate value of this contract will exceed the delegated limit of £50,000 and so Cabinet approval is now required to extend the contract to complete the procurement of a development partner.

## BACKGROUND

1. Harlow was granted Enterprise Zone status in the autumn of 2011 as one of 24 sites across England identified as having significant potential for job creation. The status enables the Council to offer a simplified planning regime, business rates discounts and access to superfast broadband as incentives for companies to locate here. In the longer term, it is expected that the Enterprise Zone in Harlow could create up to 5,000 new jobs and be a significant catalyst in the regeneration of the Town.
2. The Enterprise Zone is split across two sites. At Templefields, a long term re-development of ageing industrial premises will take place, initiated by the delivery of some road infrastructure improvements beginning in early 2016. At London Road, the site is split into the former Nortel Campus at London Road South and the greenfield land at London Road North. The former is being re-developed into a new business park and data centre complex by the site's owners, Harlow Properties Ltd and their development partner, Goldacre Ventures. The vision for London Road North is to create a new Business/Science Park for Harlow, in particular capitalising upon the growth in the life science and medical technology sectors.
3. In January and April 2015 Harlow Council acquired two parcels of land at London Road North, in total comprising 25 acres, to facilitate the development of the new Business/Science Park. In March 2015, the Council commenced the procurement of a development partner through the OJEU competitive dialogue process to work with the Council to build and operate this new Business/Science Park on the land in the Council's ownership. This is a complex process and is one which contains a number of risks for the Council in terms of both the procurement process itself and risk of challenge to it, and in terms of the financial arrangements into which the Council will ultimately enter. It is therefore essential that the Council receives appropriate professional advice on this procurement process and appointment. Officers are now in discussion with two shortlisted developers on detailed proposals, with this stage of the process expected to complete in October/November 2015. It is anticipated that the Cabinet will appoint preferred development partner in December 2015.
4. The complexities of the process necessitate the provision of appropriate professional advice to the Council. Harlow Council has never before undertaken a procurement process of this nature under the Competitive Dialogue Regulations and it is essential that it does not leave itself open to potential challenge. The nature of the proposed relationship with a development partner will also require specialist advice to ensure that the Council secures the best possible financial deal for it and for the development of the Enterprise Zone. This relationship could be a contractual one, or it

could be some form of joint venture and this will be explored through the procurement process with detailed proposals being contained in the receipt of formal tenders in the autumn. The Council will need to have recourse to professional advice to ensure that it selects the best option in relation not only to the development model, but also in relation to property market advice about what is realistic and deliverable.

5. The current contractor was initially appointed in April 2014 by DCLG through a competitive tendering process to provide support to a number of Enterprise Zones across the country, including Harlow. This contract was held and fully funded by DCLG. In Harlow, the contractor's work consisted of the modelling of future business rate uplift, advice on the acquisition of the land at London Road North, initial site master-planning and the production of a market demand report. Initial conversations with DCLG had indicated that it was happy to novate this contract to Harlow Council to enable the current contractor to continue to provide support to the Council during the procurement process, on the basis that this extension would be funded by Harlow Council. However, in March 2015 DCLG informed the Council that this was not possible since the original procurement was for a time limited piece of work expiring that month and the terms of the original procurement exercise did not make provision for any extensions.
6. As it was about to embark upon the developer procurement process imminently, the Council needed to proceed with an urgent appointment or risk a potential six month delay whilst it undertook a new competitive tender. The option of utilising the Crown Commercial Service was explored but dismissed since this would also have caused unacceptable delay. Therefore, a waiver to Contract Standing Orders was approved in April 2015 to enable the appointment to continue to provide professional support to the Council. This was agreed on the basis that the contractor already had unique knowledge of the Harlow Enterprise Zone (thereby making it cost effective), was already supporting the Council and that this appointment could ensure that there were no significant delays to the procurement process.

## **ISSUES/PROPOSAL**

7. The waiver to standing orders is capped at a maximum contract value of £50,000 and the Council has entered into an initial contractual arrangement that is capped at this level. However, the end value of the contract will be in the region of £90,000. This will cover:
  - (a) Production of a baseline financial appraisal.
  - (b) Management of the pre-qualification and shortlisting phase.
  - (c) Production of the formal invitation to participate in dialogue documentation.
  - (d) Management of the competitive dialogue phase.

- (e) Preparation of draft heads of terms.
  - (f) Production of the invitation to tender documentation.
  - (g) Evaluation of tenders.
  - (h) Advice to the Council on proposed financial and development models and the recommendation of a preferred bidder.
  - (i) Participation in preferred bidder negotiations to agree a form of contract.
  - (j) Development of financial modelling of business rate uplift and negotiations with SELEP regarding Harlow's retention of business rates.
8. The initial approval has enabled the developer procurement process to commence, but Cabinet approval is now sought to enable the Council to receive proper professional advice through to the completion of the procurement.
9. The funding for this consultancy support is sourced from a grant from SELEP specifically for the purpose of the development of the Enterprise Zone. None of the Council's own resources will be used for this purpose.

## **IMPLICATIONS**

### **Place (includes Sustainability)**

Contained within the body of the report.

Author: **Graeme Bloomer, Head of Place**

### **Finance (Includes ICT)**

The costs of the contract extension if agreed will be fully met by SELEP funding and will have no impact on the Council's funds, as is explained in the report

Author: **Simon Freeman, Head of Finance**

### **Housing**

As contained in the body of the report.

Author: **Andrew Murray, Head of Housing**

### **Community Wellbeing (includes Equalities and Social Inclusion)**

None specific.

Author: **Jane Greer, Head of Community Wellbeing**

### **Governance (includes HR)**

The Council's Contract Standing Orders (CSOs) enable a waiver to the need to follow the Council's CSOs under section 1 paragraph 3 in exceptional circumstances where the aggregated value of which cannot exceed the EU threshold for goods, works or services. The original waiver was capped at £50,000 which now needs to be extended due to the complexities of the

proposed advice in paragraph 7 of this report.

There is no provision to extend the contract's financial value therefore Cabinet approval is required to waive CSOs to enable the contractual relationship to continue. If this contract is not extended, there is a risk to the Council will be without specialist advice and support on particular aspects of the EZ development, which may lead to delay.

The aggregated value of the contract remains within the EU threshold of £172,514 for services.

Author: **Brian Keane, Head of Governance**

### **Background Papers**

*[These are papers referred to in the preparation of the report that are not attached as appendices but that are available for public or Councillor study.]*

Waiver to CSOs report – Harlow Enterprise Zone – Developer Procurement, 21 April 2015

### **Glossary of terms/abbreviations used**

DCLG – Department for Communities and Local Government

OJEU – Official Journal of the European Union

SELEP – South East Local Enterprise Partnership