

# Birmingham City Council

## Report to Cabinet

Date: 12<sup>th</sup> December 2023



**Subject:** NON-KEY DECISION PLANNED PROCUREMENT ACTIVITIES (JANUARY 2024 – MARCH 2024)  
**Report of:** ASSISTANT DIRECTOR – PROCUREMENT  
**Relevant Cabinet Member:** Councillor Brigid Jones, Cabinet Member for Finance and Resources  
**Relevant O &S Chair(s):** Councillor Jack Deakin, Chair of Finance and Resources OSC  
**Report author:** Steve Sandercock, Assistant Director, Procurement  
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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential :		

### 1 Executive Summary

- 1.1 This report provides details of the planned procurement activity for the period January 2024 – March 2024 which are not key decisions. Planned procurement activities reported previously are not repeated in this report.
- 1.2 The report enables Cabinet to identify whether any reports for procurement activities should be brought to this meeting for specific executive decision,

otherwise they will be dealt with under Chief Officer delegations up to the value of £500,000, unless TUPE applies to current Council staff.

## **2 Recommendations**

- 2.1 To note the planned procurement activities as set out in Appendix 1 and Chief Officer delegations, set out in the Constitution, for the subsequent decisions around procurement strategy and contract awards.

## **3 Background**

- 3.1 The report approved by Council Business Management Committee on 16 February 2016 set out the case for introducing this process.
- 3.2 At the 12<sup>th</sup> July 2022 meeting of Council changes to procurement governance were agreed which gives Chief Officers the delegated authority to approve procurement contracts up to the value of £500,000 for non-key decisions over the life of the contract. Where it is likely that the award of a contract will result in staff employed by the Council transferring to the successful contract under TUPE, the contract award decision has to be made by Cabinet.
- 3.3 In line with the Procurement and Contract Governance Rules that form part of the Council's Constitution, this report acts as the process to consult with and take soundings from Cabinet Members and the Resources Overview & Scrutiny Committee.
- 3.4 This report sets out the planned procurement activity over the next few months where the contract value is between the procurement threshold £177,897.50 (excluding VAT) and £500,000 (excluding VAT) for non-key decisions. This will give members visibility of all procurement activity within these thresholds and the opportunity to identify whether any procurement reports should be brought to Cabinet for approval even though they are below the £10m delegation threshold.
- 3.5 It should be noted that the procurement threshold has changed from £189,330 to £177,897.50 (excluding VAT) and applies from 1st January 2022 for a period of 2 years.
- 3.6 Individual procurements may be referred to Cabinet for an executive decision at the request of Cabinet, a Cabinet Member or the Chair of Resources Overview & Scrutiny Committee where there are sensitivities or requirements that necessitate a decision being made by Cabinet.
- 3.7 Procurements below £500,000 contract value that are not listed on this or subsequent monthly reports can only be delegated to Chief Officers if specific approval is sought from Cabinet. Procurements above £10m contract value will still require an individual report to Cabinet in order for the award decision to be delegated to Chief Officers if appropriate.

## **4 Options considered and Recommended Proposal**

- 4.1 The options considered are:

- To identify specific individual procurements as listed in appendix 1 for further consideration, along with clear reason(s) for such additional consideration, to Cabinet around the procurement strategy and contract award.
- To note the planned procurement activities for all the projects listed in appendix 1 and the Chief Officer delegations as set out in the Constitution, for the subsequent decisions around procurement strategy and contract awards.– this is the recommended option.

## **5 Consultation / Engagement**

- 5.1 This report to Cabinet is copied to Cabinet Members, Cabinet Support Officers and to Resources Overview & Scrutiny Committee and therefore is the process for consulting with relevant cabinet and scrutiny members. At the point of submitting this report Cabinet Members/ Resources Overview & Scrutiny Committee Chair have not indicated that any of the planned procurement activity needs to be brought back to Cabinet for executive decision.

## **6 Risk Management**

- 6.1 Members should note that in respect of any procurement projects which are sought to be referred back to Cabinet for further considerations these may impact on timescales around the delivery of those projects.
- 6.2 Details of Risk Management, Community Cohesion and Equality Act requirements will be set out in the individual reports.

## **7 Compliance Issues:**

### **7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?**

- 7.1.1 Details of how the contracts listed in Appendix 1 and Appendix 2 support relevant Council policies, plans or strategies, will be set out in the individual reports.

### **7.2 Legal Implications**

- 7.2.1 Members are reminded that as a Local Authority the Council has specific duties under public sector procurement, specifically the Public Contract Regulations 2015.
- 7.2.2 Specific details of any implications related to public sector procurement Regulations are set out- in the individual reports appended to this report.

### **7.3 Financial Implications**

- 7.3.1 Specific details of how decisions will be carried out within existing finances and resources will be set out in the individual reports.

7.3.2 Any cashable savings generated as a result of the procurement exercises are detailed in Appendix 2 to the delivery of procurement related savings and be removed from Directorate where identified in addition to the existing service area savings target as set out in the Medium Term Financial Plan (MTFP) in line with the principles to treatment of identified savings against third party contracts as agreed by CLT on 24th January 2022.

#### **7.4 Procurement Implications (if required)**

7.4.1 As noted under the Legal Implications the Council has a duty to ensure that public sector procurement activity is in line with public sector legislation, specifically the Public Contracts Regulations 2015.

7.4.2 For each of the individual projects the specific procurement implications associated to the legislation are set out and detailed in the appendices

#### **7.5 Human Resources Implications (if required)**

7.5.1 None.

#### **7.6 Public Sector Equality Duty**

7.6.1 Details of Risk Management, Community Cohesion and Equality Act requirements will be set out in the individual reports which should also give consideration to application of Equality Impact Assessments in line with Council Policy

### **8 Background Documents**

8.1 List of Appendices accompanying this Report (if any):

- 1. Appendix 1 - Planned Procurement Activity January 2024 – March 2024
- 2. Appendix 2 – Background Briefing Paper

## APPENDIX 1 – PLANNED PROCUREMENT ACTIVITIES (JANUARY 2024 – MARCH 2024)

No.	Type of Report	Title of Procurement	Ref	Brief Description	Contract Duration	Directorate	Portfolio	Finance Officer	Contact Name	Planned CO Decision Date
1	Strategy / Award	Employer's Agent Services for the Druids Heath Estate Regeneration Scheme	TBC	The services will conclude the work to complete the outline planning application and masterplan and include: <ul style="list-style-type: none"> <li>•additional surveys for the Environmental Impact Assessment and advice</li> <li>•further design work</li> <li>•planning, transport and sustainability advice</li> </ul>	up to 18 months	Place, Prosperity and Sustainability	Housing and Homelessness	Andrew Healey	Deborah Greenhill / Jessica Brittle	22/01/2024
2	Strategy / Award	Tennis Court Refurbishment Works	TBC	To refurbish the tennis courts in the Council's parks as listed below for court resurfacing and painting, upgrades to fencing, gated access and new posts and nets: <ul style="list-style-type: none"> <li>•Bournville</li> <li>•Brookvale</li> <li>•Cannon Hill</li> <li>•Gilbertstone</li> <li>•Lickey Hills</li> <li>•Mere Green</li> <li>•Pype Hayes</li> <li>•Rookery</li> <li>•Summerfield</li> </ul>	6 months	City Operations	Health and Social Care	Carl Tomlinson	Helen Corrigan / Charlie Short	22/01/2024
3	Strategy / Award	Computer Aided Facilities Management (CAFM) Software	TBC	CAFM system (migration to Cloud) used for Repair and Maintenance and Statutory Maintenance to ensure Building Health and Safety Compliance. The system is critical to the management of Council properties and maintenance / monitoring of statutory responsibilities relating to the Health and Safety of building users including for example the public, care home residents and staff.	2 years	Place, Prosperity and Sustainability	Transport	Azhar Rafiq	Michael McGuinness / Vijay Rubanathan	22/01/2024

## APPENDIX 2

### BRIEFING NOTE ON PLANNED PROCUREMENT ACTIVITIES CABINET – 12<sup>th</sup> DECEMBER 2023

<b>Title of Contract</b>	<b>Employer's Agent Services for the Druids Heath Estate Regeneration Scheme</b>
<b>Contact Officers</b>	<b>Director: Paul Kitson</b> – Director of Place, Prosperity and Sustainability <b>Client Officer:</b> Deborah Greenhill – Project Lead (Druids Heath) <b>Procurement Officer:</b> Katharyn Jones – Procurement Manager
<b>Relevant Portfolio</b>	<b>Councillor Jayne Francis - Cabinet Member for Housing and Homelessness</b>
Briefly describe the service required	To support the Druids Heath Regeneration Scheme approved by Cabinet on 13 <sup>th</sup> December 2022, there is a requirement for employer's agent services with WSP UK Ltd. The services will conclude the work to complete the outline planning application and masterplan and include: <ul style="list-style-type: none"><li>• additional surveys for the Environmental Impact Assessment and advice</li><li>• further design work</li><li>• planning, transport and sustainability advice</li></ul> It is an urgent requirement that employer's agent services are undertaken to enable the completion of the masterplan.
What is the proposed procurement route?	Direct award calling off from the NHS Shared Business Services Healthcare Planning, Construction Consultancy and Ancillary Services framework agreement. In accordance with the NHS SBS framework agreement guidance, it is permissible to use direct award where the customer identifies this as the most appropriate route and on the basis that it is an urgent requirement where the delay caused by undertaking a further competition exercise would be detrimental to the outcome.
What are the existing arrangements? Is there an existing contract? If so when does that expire?	The current contract expires in January 2024. This contract cannot be extended due to the value of expenditure increased more than 50% of the original contract value in accordance with the Public Contracts Regulations 2015.
Will any savings be generated?	No cashable savings will be generated by this project.
Has the In-House Preferred Test been carried out?	Yes, and the test demonstrated this is not suitable to be carried out in-house for a service the Council does not have the capability to undertake.
How will this service assist with the Council's commitments to Route to Zero?	The works will be undertaken using online platforms and minimising paper usage. Car trips will be minimised, and the public transport links maximised. Therefore, reducing carbon footprint.
How do these activities assist the Council with Everybody's Battle; Everybody's Business?	There is no direct impact on Everybody's Battle, Everybody's Business from the award of this contract.
Is the Council under a statutory duty to provide this service? If not, what is the justification for providing it?	There is not a statutory duty to provide this service. However, the services are essential to support the regeneration scheme to improve the Druids Heath area.
Approval via Spend Control Board.	Approved at Place, Prosperity and Sustainable Spend Control Board 4 <sup>th</sup> September 2023 and Section 151 approval on 27 <sup>th</sup> September 2023.
Estimated value of project (note: value estimated at time of submission of PPAR, this may change at time of advancing any related procurement activity)	The estimated value contract is £395,756 based on the framework rates for the resourcing to deliver the services.
What budget is the funding from for this service?	This is funded from BMHT HRA budget allocation for Druids Heath Regeneration.
Proposed start date and duration of the new contract	The proposed start date is January 2024 for a period of up to 18 months or until the approval of the outline planning.

<b>Title of Contract</b>	<b>Tennis Court Refurbishment Works</b>
<b>Contact Officers</b>	<b>Director / Assistant Director:</b> Chris Jordan, Assistant Director, Neighbourhoods <b>Client Officer:</b> Helen Corrigan, Senior Sports Manager <b>Procurement Officer:</b> Charlie Short, Procurement Manager
<b>Relevant Portfolio</b>	<b>Councillor Mariam Khan – Cabinet Member for Health and Social Care</b>
Briefly describe the service required	To refurbish the tennis courts in the Council's parks as listed below for court resurfacing and painting, upgrades to fencing, gated access and new posts and nets: <ul style="list-style-type: none"> <li>• Bournville</li> <li>• Brookvale</li> <li>• Cannon Hill</li> <li>• Gilbertstone</li> <li>• Lickey Hills</li> <li>• Mere Green</li> <li>• Pype Hayes</li> <li>• Rookery</li> <li>• Summerfield</li> </ul>
What is the proposed procurement route?	The Lawn Tennis Association undertook a further competition exercise using the Football Foundation's tennis court refurbishment framework agreement. The Council will enter into a contract with Fosse Contractors Ltd called off this framework in accordance with its protocol.
What are the existing arrangements? Is there an existing contract? If so when does that expire?	This is a one-off requirement.
Will any savings be generated?	No savings will be generated from this procurement process for a one-off works project.
Has the In-House Preferred Test been carried out?	Yes, and the test demonstrated this is not suitable to be carried out in-house for a construction project.
How will this service assist with the Council's commitments to Route to Zero?	The works will be undertaken using the most up-to-date sustainable materials.
How do these activities assist the Council with Everybody's Battle; Everybody's Business?	The refurbishment of the tennis courts to enable them to be inclusive and available to all sections of the community.
Is the Council under a statutory duty to provide this service? If not, what is the justification for providing it?	There is not a statutory duty to provide this service. However, the works support the Council's commitment to creating a sustainable legacy of hosting the Commonwealth Games and delivering sporting facilities and infrastructure that encourage all citizens to engage in sport and physical activity.
Approval via Spend Control Board	Approved at Place, Prosperity and Sustainable Spend Control Board on 25 <sup>th</sup> September 2023 and Section 151 approval on 28 <sup>th</sup> September 2023.
Estimated value of project (note: value estimated at time of submission of PPAR, this may change at time of advancing any related procurement activity)	The value of the contract is £303,770 based on the fixed costs of the Lawn Tennis Association contract.
What budget is the funding from for this service?	The scheme is funded by the Sport Service budget from funding received by the Lawn Tennis Association.
Proposed start date and duration of the new contract	The proposed start date is February 2024 for a period of 6 months.

<b>Title of Contract</b>	<b>Computer Aided Facilities Management (CAFM) Software</b>
<b>Contact Officers</b>	<b>Assistant Director:</b> Philip Edwards, Assistant Director Transport and Connectivity <b>Client Officer:</b> Michael McGuinness, Property and Technical Development Manager <b>Procurement Officer:</b> Vijay Rubanathan, IT Commissioning Manager
<b>Relevant Portfolio</b>	<b>Councillor Liz Clements - Cabinet Member for Transport</b>
Briefly describe the service required	There is a requirement of CAFM system (migration to Cloud) used for Repair and Maintenance and Statutory Maintenance to ensure Building Health and Safety Compliance. This is a contractual commitment and must be agreed prior to April 2024 otherwise a penalty of £230,000 applies. The system is critical to the management of Council properties and maintenance/monitoring of statutory responsibilities relating to the health and safety of building users including for example the public, care home residents and staff.
What is the proposed procurement route?	A procurement process will be undertaken by way of a National Framework in accordance with its protocol.
What are the existing arrangements? Is there an existing contract? If so when does that expire?	The current on prem CAFM system provided by Civica has reached its end of life and the current contract expires on 31 <sup>st</sup> January 2024. The software goes out of support at the end of March 2024 and cannot be used beyond that date.
Will any savings be generated?	This contract is essential for income generation from the commercial/investment portfolio. If buildings are not safe, we cannot operate services such as libraries, leisure, care homes, homeless centres, etc.
Has the In-House Preferred Test been carried out?	Yes, CAFM is a specialist piece of software needed to manage around HSE regulations and manage/monitor spend on all our properties. To design something of this nature in house would be a huge risk to the Council to implement and have continuous ongoing development costs to meet changing needs, demands and legislation.
How will this service assist with the Council's commitments to Route to Zero?	This procurement is for a software solution hosted on cloud, it reduces the need for hosting servers within the Council and thereby reduce carbon footprint.
How do these activities assist the Council with Everybody's Battle; Everybody's Business?	The required activities support tackling inequalities as per the Council's Equality Strategy and Action Plan documented here. The activities i.e. managing Council's property portfolio in an efficient manner is an important activity in providing continued revenue to the council which can be used to fund other projects that can tackle inequality.
Is the Council under a statutory duty to provide this service? If not, what is the justification for providing it?	Yes, the Health & Safety at Work etc. Act 1974 makes it a legal responsibility for the Council to ensure all Council buildings are safe. This means ensuring repairs are carried out and statutory testing is undertaken on items such as legionella, lifts, gas, RCD, asbestos etc. Without the system we could not issue R&M or Statutory maintenance instructions to contractors and could not operate or lease any buildings safely, affecting statutory services and rental income from those buildings.
Approval via Spend Control Board.	Approval for this requirement was obtained from Place, Prosperity and Sustainability Spend Control Board on the 3 <sup>rd</sup> November 2023 and approved at Section 151 Board on 6 <sup>th</sup> November 2023.
Estimated value of project (note: value estimated at time of submission of PPAR, this may change at time of advancing any related procurement activity)	The estimated value for the period of the contract is £283,487.
What budget is the funding from for this service?	The implementation cost will be funded by Place, Prosperity & Sustainability Directorate and the ongoing license fee will be funded by DTS.
Proposed start date and duration of the new contract	The proposed start date is 1 <sup>st</sup> February 2024 for a period of 2 years.