

Notice of Non-key Executive Decision

Subject Heading:	Approval to award a contract for Pre-App and Planning Application (PPA) dedicated case officer resource
Decision Maker	Helen Oakerbee, Assistant Director Planning
Cabinet Member:	Councillor Joshua Chapman, Cabinet Member for Housing and Planning
SLT Lead:	Barry Francis, Director of Neighbourhoods
Report Author and contact details:	Catherine Culley Programme Manager Planning Service Catherine.culley@havering.gov.uk
Policy context:	National Planning Policy Framework London Plan 2021 Havering Local Plan
Financial summary:	<p>This work will be cost neutral as the funding of the contract is based on income received via the PPA</p> <p>The developer will pay the council the amount agreed in the PPA, and we will use the income to fund the resource cost.</p> <p>The income will be received before there is any expenditure on the resource requested via the Framework call off.</p>

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Relevant OSC:	Towns & Communities Overview & Scrutiny Committee
Is this decision exempt from being called-in?	Yes. It is a non-key decision by a member of staff

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The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report seeks approval to directly award a contract for Planning Pre-App and Application (PPA) dedicated case officer resource services to Capita through the Crown Commercial Service (CCS) framework RM6168 Lot 1.

AUTHORITY UNDER WHICH DECISION IS MADE

This decision is made under Paragraph 3.4 (Powers of Second Tier Managers) of Part 3 [Responsibility for Functions] the London Borough of Havering Constitution Contract Powers (a) which authorises Second Tier Managers to approve the commencement of a tendering process for, and to award all contracts below a total contract value of £500,000.

STATEMENT OF THE REASONS FOR THE DECISION

The Planning Service offer a Pre Planning Application (PPA) service to help developers address the complexities of planning requirements for large scheme developments.

PPA agreements are currently being finalised with two developers for adjoining sites in the Borough, where they will pay LBH Planning £300k for a dedicated officer service. The fees charged will come into the Planning Service as income. Under the agreement there is a requirement for LB Havering to provide case officer expertise for those planning applications.

LB Havering does not have unassigned case officer resource available, and now looks to engage a service provider to deliver the outcomes required under the PPA. It will be time-critical to get an appropriate resource or service in place, as once the PPA is signed and the fee paid, the developer will have an expectation of getting immediate access to the advice provided by the case officer.

The nature of the work is such that there may be no deliverables one week, several hours or days work some weeks, and potentially 40 hours + other weeks, depending on the stage of the plans and the submission. The work will be defined by the planning process and the development design.

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The Planning Service have undertaken some early market research to identify a suitable service or resource to undertake this work. Our investigations showed that there were only 2 suppliers - TerraQuest and Capita.

We approached TerraQuest who advised us that they were not in a position to provide the PPA Case Officer resource service at this time.

We approached Capita who advised that they regularly provide this type of service to other boroughs, and there is a framework covering this work-package on the Crown Commercial Service framework RM 6168 Lot 1.

The funding for this work will come directly from the Developer PPA fee payment. The contract will not be let until the PPA agreement is signed, thereby guaranteeing the availability of the fees as income to cover the costs, with a schedule of developer payments.

The contract will be set up as a call-off from the framework, where we pay for the work that is done. Payment will be made according to number of hours worked.

OTHER OPTIONS CONSIDERED AND REJECTED

Do Nothing: Not recommended

Reputational risk - we will have committed to provide support to the Developers and be unable to deliver.

Cost risk - if we cannot provide the resource and right level of support in the right timescales then the developer may ask for their PPA money back (£300k)

Recruit a contractor: not recommended

The role is not a substantive post – it is a specialist role more akin to a consultant to cover management of two strategic planning applications – the developers are covering the cost.

Recruit a permanent employee: Not recommended

This work requires a high calibre experienced case officer. There are currently vacancies in the Planning Service for Planning Case Officers. The Planning Service undertook a reorganisation in 2018, and have been attempting to recruit to these vacancies since then. As yet no suitable candidates have accepted the role, and we do not see this being possible in the timescales possible due to lack of resource type in the market.

We have looked to Matrix in the past and never been successful in finding a suitable resource – in any event the role is not one where there is a set number of hours per week so it is not suited to an agency recruitment – we want someone who will work to

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a project plan with varying commitment each week. The advantage is that the person will be engaged in other work (not for Havering) and we pay an hourly rate based on the work undertaken.

PRE-DECISION CONSULTATION

None

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Simon Thelwell

Designation: Head of Strategic Development, Planning Service

Signature: 

Date: 25th May 2022

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

This report seeks authority to directly award a contract to Capita through the CCS Framework RM6168.

The Council has a general power of competence under s1 of the Localism Act 2011 to do anything that an individual generally may do subject to other statutory provisions limiting or restricting its use. The recommendations to award the works contract is compatible with these statutory duties and power.

The value of the contract is below the applicable service contract threshold stipulated in the Public Contracts Regulations (as amended) 2015 ("PCR") of £213,477 (including VAT). Therefore this contract is not subject to the full PCR regime.

However any tender should comply with the Council's Contract Procedure Rules (CPR).

CPR 20.4 Where a framework agreement is operational, all subsequent purchases under the framework shall either not require further competition (if a single supplier) or, if there are two or more suppliers for those goods or services on the framework, follow the express framework provisions for choosing a supplier. If there are no such express provisions a mini-competition should be held amongst the relevant suppliers.

Directly awarding the contract through the CCS Framework is permitted under the terms of the framework and is lawful and in compliance with CPR 20.4

CPR 17.5 states All requirements for consultancy or professional services should be sourced via the approved framework (currently NEPRO) and procured in accordance with that policy. In general, external resource may only be used when absolutely necessary and where a business case has been approved by the relevant Director of Service and the Head of Procurement. Officers have confirmed that the use of the CCS Framework rather than NEPRO has been approved by the relevant director and head of procurement in respect of this procurement.

FINANCIAL IMPLICATIONS AND RISKS

In each case, the contract with the supplier for the case officer resource will not be created and signed until a PPA payment has been made that will cover those costs, and a schedule of additional payment is agreed to cover the ongoing work, therefore incurring no direct financial risk to the authority.

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PPA income code A44510.516940.6218.000000.000000.

The case officer costs will be coded as follows A45510.641440.0000.000000.000000

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HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no HR implications or risks arising from this decision that impact on the Councils workforce. This is a contract for services and the case officers delivering the service will be engaged by Capita and will not be Council employees.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

This Executive Decision is primarily related to the procuring and a service to provide input into pre-application. There are no specific equalities implications for people, including those with protected characteristics. An Equalities Assessment is therefore not necessary in this instance.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

There are no environmental or climate change impacts from this contract award. The recommendations made in this report do not appear to conflict with the Council's policy on Environmental and Climate implications

BACKGROUND PAPERS

None

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed 

Name: Helen Oakerbee

Head of Service title: Assistant Director Planning

Date: 25 May 2022

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____