

NORTH SOMERSET COUNCIL DECISION

DECISION OF: COUNCILLOR JAMES TONKIN. THE EXECUTIVE MEMBER FOR PLANNING, HIGHWAYS AND TRANSPORT

WITH ADVICE FROM: THE DIRECTOR OF PLACE AND HEAD OF STRATEGIC PROCUREMENT



DECISION NO: 20/21 DP 290

SUBJECT: PROCUREMENT PLANS FOR THE WESTON-SUPER-MARE TO CLEVEDON (TUTSHILL) AGRICULTURAL CROSSING AND CYCLEWAY

KEY DECISION: NO

REASON:

This Decision is not significant on the levels of expenditure or savings committed, or its effect on local communities.

BACKGROUND:

Decision 20/21 DP 272^[1] approved the Revised Commissioning Plan for the Weston-super-Mare to Clevedon Cycleway (Tutshill) Cycleway.

This report sets out the proposed procurement routes for:

- The construction of a new agricultural crossing over the Congresbury Yeo;
- An off-road cycleway.

DECISION:

That the procurement plans as set out in this decision are approved.

REASONS:

The main procurement considerations on these schemes are

- The design work is scheduled for final sign off by early March. This also marks the earliest date at which costing tender papers can be issued to bidders.
- Due to funding and environmental/ecological constraints on the scheme it is important that the crossing scheme commences on site in the summer of 2021.
- The project team is keen to encourage local / regional suppliers to bid for this opportunity
- Overall funding for the scheme is limited and ongoing costs savings are being explored as part of the design process.

- Assurances over contract costs for both the crossing and cycleway will be needed before the Council is in a position to award either contract.

Route to Market

The estimated construction costs for the schemes are:

- Agricultural crossing Circa £2M;
- Off-road cycleway Circa £650k.

The following approaches have been considered, for both schemes

Framework Agreements

Use of an existing framework could provide a quicker route to market and reduce overall procurement procedures. However, the use of a framework(s) for these schemes have been discounted for the following reasons.

The overall value of the schemes is relatively low for framework agreements. This could result in lower engagement amongst framework contractors with a low number of tenders returned, which may not deliver overall value for money.

Available frameworks would also limit the number of local/regional suppliers who would be eligible to apply for this submission if they were not on the framework selected. The client team would like to engage with and encourage local / regional suppliers to consider these schemes.

Open / Restricted (two stage) tendering

The use of an open / restricted tendering exercise would give local / regional suppliers more opportunity to apply for or bid for these contracts than the use of a framework agreement.

With an open (single stage) process the council would go out to the market once the final design has been signed off, with the opportunity being open to all bidders. This approach has the advantage of a later tendering date. With an open tender there is the possibility of receiving a large number of submissions and this possibility would require longer technical and financial assessments periods and could push back potential contract award dates. Open tenders may not achieve best overall price consideration, as bidders may not fully resource their tender considerations, balancing the time needed to tender for the opportunity against the probability of the winning.

With a restrictive (two stage) process the council would issue potential bidders with a Selection Questionnaire (SQ) and then selected a limited number of bidders to be invited to tender. This approach results in going out to the market sooner but does allow for the potential to have pre-tender discussions with shortlisted bidders over final design elements. A restricted process can also reduce the time needed for evaluation of submissions received and can also encourage shortlisted bidders to better resource their tender considerations as they should have a high probability of winning than through an open tender.

For these schemes it is proposed that a restricted process is the preferred option providing:

- Early ability to assess and shortlist suitable contractors;
- Potential better tender engagement from bidders;
- Opportunity for local/regional suppliers to be involved.

It is proposed that at the SQ evaluation stage between 5-7 bidders should be shortlisted for invitation to tender. This would limit the overall numbers going forward whilst at the same time providing a reasonable number of bidders overall, subject to them meeting the necessary evaluation considerations.

Contract Arrangements and Management

It is proposed that an NEC (Engineering and Construction Contract) ECC is used as the basis of the contract arrangement. This form of contract is widely used and understood in the construction market.

Under NEC ECC there are three main option groupings:

- **Fixed Price** - Options A and B. Provides for a fixed price either on an Activity Schedule (option A) or Schedule of Works (option B)
- **Target Price** - Options C and D. Provides a contract target price with final payment being made against target price plus any agreed pain / gain cost adjustment. Target price contracts are more useful where the extent of the work is not fully defined, where there are high levels of scheme risk and / or where there is scope for innovation in design and construction. As the schemes will be fully designed before tender with only limited scope for innovation from the contractors these options have been discounted.
- **Cost reimbursement** - Option E. This has been ruled out as it is primarily intended for schemes where the definition of works is limited at the time of tender. This will not be the case of these contracts where the requirements will be well defined.

Under a fixed price approach, the main attributes of the two available options are.

	Option A	Option B
Advantages	<p>A full Bill of Quantities is not needed</p> <p>Can use non-technical - easy to read and understand</p> <p>No re-measurement of works, with possible less site supervision, administration and management input needed.</p>	<p>Full Bill of Quantities priced – allowing for direct comparison between submissions and rates.</p> <p>Rates can be used as basis for later additions/variations</p> <p>Easier to ensure full scope of works have been priced for</p> <p>Bidders do not need to establish their own quantities in order to tender</p>

Disadvantages	<p>No standardisation of tender responses – potentially difficult to make direct comparison between submissions.</p> <p>Greater bidder commitment needed – bidders need to make own assessment of scope of works.</p> <p>No unit rates provided which can lead to difficulty if additional / varied work instructed.</p>	<p>Client will need to produce Bill of Quantities and carry risk that these are correct.</p> <p>Potential for increase site supervision and measurements increasing work supervision costs.</p>
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It is recommended that Option B is used for both contracts as it reduces the amount of resources and time needed by bidders to prepare their tenders, allows for quicker and easier comparisons between submissions received, and provides good levels of assurance over scheme cost and affordability.

As part of the design works WSP are commissioned to provide a full specification and schedule of works which is being used for scheme costing purposes. This can be readily converted into a full Bill of Quantities suitable for tendering purposes.

The contracts will be managed through NSC using experienced resources where possible but supplemented where required with professional services e.g. use of quantity surveyors and contract management staff. An EEC contract manager will be appointed for the project and this post will either be held by existing NSC staff with external support or an externally appointed person.

During the design and procurement process additional project support will be provided by WSP who have produced the designs. Once the contract has been awarded WSP will be retained to help resolved design related queries.

Proposed timetable

Due to funding and environmental considerations both contracts need to be in place and works commenced by mid - summer 2021. In order to award either contract the tender prices for both schemes are needed to ensure overall affordability. To meet the contract dates the following timetable is proposed

Publish Expression of interest SQ	Early Feb
Expression of interest end date	Mid Feb
Evaluate and shortlist applicants	End Feb
Publish tender	Late March
Tender end date	Late April
Tender Evaluation	May
Award decision	Late May
Contract commencement	Mid June

When the Expressions of Interests have been advertised this will be supplemented with contact with a range of local / regional contractors who the council would be interested in applying for this opportunity. Early Contractual Involvement (ECI) has been undertaken as part of the design process and the same contractors will be encouraged to apply for the works. In addition, the scheme attracted a number of commercial enquiries at the planning stage resulting a small database of suppliers who have been kept up to date with project progress to date and will be advised of the publication of procurement documents.

Tender Evaluation

Given the pressures on the scheme budget, price affordability is a key factor. It is proposed that a 80 Price / 20 quality model is used for both contracts

The use of a two-stage process provides for initial considerations of contractor's ability at the time of pre-selection so that these do not have to be factored into the award evaluation process.

For tender evaluation purposes it is proposed to use quality questions covering the following areas:

Factor	Main considerations
Construction sequencing and methodology	Demonstrating full understanding of the works and the specific characteristics of the site (specifically; technical aspects of the structures, experience in schemes of this nature, works within a river / semi-marine environment, works in a remote location, and environmental management).
Delivery Programme	Demonstrating the ability to deliver works in good time including project dependencies and key milestones.
Risk Management	Identification of key risks to the scheme and the proposed mitigation controls which will be put in place (specifically covering: environmental management, programming issues, Covid-19, key project milestones, and site management).
Social Value / Environmental	Commitment to minimising greenhouse emissions and wider environmental impacts and the delivery of Social Value Outcomes.

OPTIONS CONSIDERED:

As detailed within Reasons section above

FINANCIAL IMPLICATIONS:

Costs and Funding

Executive Member report 20/21 DP 272^[1] agreed costs and funding for this scheme amounting to £3,164,000; this includes scheme elements in addition those detailed in this report.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

The provision of a strategic cycleway will support the North Somerset Climate Emergency Strategy and Action Plan.

The Contractor will play an active and key role in ensuring the Council's ambition of carbon reduction and bio-diversity net gain is secured and achieved. The procurement process will challenge the contractor, and their supply chain, on their carbon footprint and the winning bidder will have been able to demonstrate appropriate environmental considerations in their bid; for example, use of local supply chains, sourcing of local materials, and environmentally conscious construction techniques.

Key Performance Indicators for the construction phase will be linked to sustainable construction and environmental awareness but also at an organisational level and their corporate approach to sustainability.

CONSULTATION

The project is long standing in nature and was first proposed in 1979. Various efforts have been made to progress the scheme including by private individuals, Woodspring District Council, and Sustrans.

The proposal for the Weston-s-Mare to Clevedon Cycleway has gained increased demand over recent years; an independent support and campaign group has been set up specifically for the project and has over 1300 supporters.

There are three private landowner parties, two statutory bodies and two adjacent landowners who are key stakeholders in the project.

The scheme was granted planning permission in December 2018^[2]. Prior to the submission of the planning application all affected parties (including landowners, adjacent landowners, statutory bodies and Parish Councils) have been consulted in detail on the proposal and layout of the project. A Statement of Community Involvement ^[3] was included in the planning application and contains full details of the consultation undertaken for the scheme.

LEGAL POWERS AND IMPLICATIONS

The procurement route will be compliant with Council Standing Orders. The tender values are below the works value of Public Contract Regulations 2015

RISK MANAGEMENT

The following risks and mitigation measures have been considered:

Risk	Mitigation
Final post-tender costs exceed available budget	Seek further funding if possible. Only proceed if risks considered acceptable / manageable.
Too few bidders respond to the procurement	Potential bidders will be approached to ascertain interest in the tender. The contract information will be presented in a way which is appealing to a wide variety of contractors.
COVID delays works	Construction works are not expected to be significantly delayed by COVID due to outdoor working and expected vaccinations by the time works will commence. Seek extensions to funding claim deadlines where possible (not possible for EU funding).
BREXIT changes labour availability or costs	We expect companies tendering for the works to factor this into their submissions.

EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? No

Active travel is an activity which is open to all. In accordance with Policy DM 33 of the Sites and Policies Plan (Part 1) the path surface, gradients, and all access points have been designed to facilitate access by disabled people which is of the same standard as that provided for able-bodied people; this includes those who use wheelchairs and mobility aids.

The latest guidance and design standards have been followed during the design and no deviations from standard will be required.

CORPORATE IMPLICATIONS

The project supports a range of the Council's Corporate Plan priorities, including:

- A great place for people to live, work and visit.
- To be a carbon neutral council and area by 2030.
- A transport network which promotes active, accessible and low carbon travel.

It also supports the North Somerset Climate Emergency Strategy.

BACKGROUND PAPERS

[1] Mann, F. (2021) *Revised Commissioning Plan For The Weston-Super-Mare To Clevedon (Tutshill) Cycleway*. North Somerset Council. Available at: <https://www.n-somerset.gov.uk/council-democracy/councillors-committees/decisions-meetings/executive-member-decisions/2021-executive-member-decisions/january-2021-executive-member-decisions>

[2] Kent, R. (2018) *Notice of Decision: 18/P/4758/FUL*. North Somerset Council. Available at: https://planning.n-somerset.gov.uk/online-applications/files/E23633B33994BF7055C32E49D9D80ACB/pdf/18_P_4758_FUL-DECISION_FUL_APPROVE-2759524.pdf

[3] Fish, D.C. (2018) *Weston-super-Mare to Clevedon Cycleway: Statement of Community Involvement*. North Somerset Council. Available at: https://planning.n-somerset.gov.uk/online-applications/files/1A65AC3A07543DE290E1433923FE5E36/pdf/18_P_4758_FUL-STATEMENT_OF_COMMUNITY_INVOLVEMENT-2748713.pdf

SIGNATORIES:

DECISION MAKER(S):



Signed:

Executive Member for Planning, Highways and Transport

Date: 9 February 2021

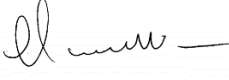
WITH ADVICE FROM:



Signed:

Director of Place

Date: 9 February 2021

Signed:  Head of Strategic Procurement

Date: 8 February 2021.