

	<p>ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER 26 January 2018</p>
<p>Title</p>	<p>Brent Cross Cricklewood Regeneration: Brent Cross West – Waste Transfer Station Procurement Strategy</p>
<p>Report of</p>	<p>Chief Executive (in consultation with the Chairman of Assets, Regeneration and Growth (ARG) Committee</p>
<p>Wards</p>	<p>Childs Hill, Golders Green and West Hendon</p>
<p>Status</p>	<p>Public, Exempt Appendix A Appendix A is exempt from publication in accordance with paragraph 3 of Schedule 12A of the Local Government Act 1972 on account that it contains information relating to the financial or business affairs of any particular person including the authority holding the information.</p>
<p>Enclosures</p>	<p>None</p>
<p>Officer Contact Details</p>	<p>Karen Mercer, Regional Enterprise Karen.mercer@barnet.gov.uk – 0208 359 7653</p>

Summary

In accordance with the ARG Committee approvals on 24 April and 27 November 2017, this report details the Procurement Strategy to deliver the Waste Transfer Station (WTS) as part of the Phase 1B (South) Thameslink Station Works being delivered by the Council to support the comprehensive regeneration of Brent Cross Cricklewood (BXC). The Procurement Strategy recommends that Graham Construction as the strategic construction partner to deliver the facility and Conway Aecom through the London Highways Alliance Contract (LoHAC) framework to undertake the associated highways works. The report also details the works required to commence in January 2018 to ensure that early works start in July 2018 and the main build contract in November 2018. Commencement of works will be subject to a separate Delegated Powers Report.

Decisions

1) To procure Graham Construction as the Strategic Construction Partner to deliver the Waste Transfer Station (WTS) and Conway Aecom through the London Highways Alliance Contract (LoHAC) framework to undertake the associated highways works to deliver the WTS requirements subject to further authorisations as may be necessary as identified in this report.

1. WHY THIS REPORT IS NEEDED

1.1 The Brent Cross Phase 1B (South) Thameslink Station (BXT) Programme is a capital investment programme for new transport infrastructure to be delivered by May 2022 to support the wider BXC Regeneration Programme. The Thameslink Programme element of the wider regeneration programme is being developed and delivered by the London Borough of Barnet (LBB) and the programme comprises a number of distinct but interrelated assets and work packages.

1.2 The procurement timeline during which the main works need to be tendered and awarded is constrained by interrelated delivery of the various packages of works which are required to be tightly managed so that the programme stays on time and within budget. LBB will need to ensure that the various partners delivering the work packages are engaged and working collaboratively.

1.3 The BXT Works programme is divided into a number of different work packages as detailed below.

Early Works

1.4 The early works (package 0 within the Station Works Procurement Strategy approved on 24 April 2017) focuses on the sidings area and includes the removal/treatment of vegetation and invasive species, a temporary haulage road and site clearance and remediation. As set out in a separate Delegated Powers Report (DPR), this work will be procured through Network Rail's (NR) procurement framework.

Rail Systems and Station

1.5 With respect to the delivery of the rail system elements including the station and sidings (packages A and B), the Council and its advisors are currently assessing whether to 1) employ NR (via an Implementation Agreement to manage and deliver the works, or 2) to determine the current relationship with NR and for LBB to contract and manage the works directly with an experienced rail contractor(s). This strategy will be finalised by March 2018.

Rail Freight Facility

1.6 In relation to the Rail Freight Facility (package D), DB Cargo is obligated to deliver the facility by 30 June 2018 under the terms of the Settlement Agreement. The Council will be monitoring progress in case it is necessary to step in as a result of non- performance.

Waste Transfer Station

- 1.7 The Council and its advisors have been working closely with the North London Waste Authority (NLWA) and London Energy Limited (LEL) to relocate the existing Hendon WTS within the BXC Regeneration area. The planning application for the WTS (package E) has now been submitted to the Local Planning Authority and the Settlement Agreement entered into by the Council and NLWA.
- 1.8 In accordance with the approved delegations as set out in the ARG Committee on 24 April 2017 and updated on 27 November 2017 this DPR deals solely with the WTS and confirms the final procurement strategy to deliver the WTS facility through procuring Graham Construction as the strategic construction partner to deliver the facility and Conway Aecom through the LOHAC framework to undertake the associated highways works. .
- 1.9 This strategy responds to LBB's requirement to develop the detailed design and procure the contractor to enable a start on site by July 2018; delivery of the WTS by 2020 and fulfil the Settlement Agreement between the Council and NLWA dated 7th September 2017.

2. REASONS FOR DECISIONS

- 2.1 The BXT Procurement Strategy as approved by the ARG Committee in April 2017 identified three routes to procuring the WTS as follows:
 - 1) LBB strategic construction partner, Graham Construction subject to negotiation with the contractor. This requirement would become a Strategic Construction Contract project delivery. Under the scope of this contract, Graham Construction would be permitted to complete this package of works without LBB going to the open market and Graham Construction having to participate in the procurement process.
 - 2) OJEU Procurement:
 - a) one package of works to procuring demolition, build and fit out and award to a single supplier; or,
 - b) split the package in to lots for demolition, build and fit out.
- 2.2 The estimated timeframe for securing via OJEU is between 6 – 8 months from the OJEU advertisement.
- 2.3 In relation to the highways improvements, the strategy explained that LBB has an existing contract for highways term maintenance and works with LoHAC. This is a framework contract let by TfL. Therefore, the incumbent contractor, Conway Aecom could be directly appointed to deliver the highway improvements package of works. The contract would need to be benchmarked to understand if the contract demonstrates best value, if not, then LBB would have to undertake an OJEU procurement process.

- 2.4 The strategy noted that LBB could review additional TfL Framework options should direct call off from LoHAC contractor not prove an option to undertake. If not, then LBB would have to undertake an OJEU procurement process.
- 2.5 Following the ARG Committee approval in respect of the BXT Procurement Strategy on 24 April 2017 and update to the Committee on 27 November 2017, the Council has undertaken a detailed review of the proposed options.
- 2.6 Having assessed the above options, the recommended approach is for Graham Construction to construct the new facility through the existing LBB procurement framework. This would be on a two stage process. Firstly to engage Graham Construction with Early Contractor Involvement (ECI) services during the detailed design and secondly to enter into the build contract once the detailed design has advanced and cost certainty has been achieved.
- 2.7 LBB and Re will continue to engage closely with NLWA throughout the design process and contractor selection to ensure that the new facility meets NLWA requirements as well as fulfilling LBB obligations to deliver the new facility as required by the Settlement Agreement between LBB and NLWA dated 8th September 2017 (see DPR – BXC Scheme Settlement Agreement with NLWA/LEL dated 11th September 2017).
- 2.8 This approach of using the framework to deliver these works offers a number of significant benefits including cost and time efficiencies. Completing the design and gaining agreement from the end user and the constructor in advance of build contract commitment provides cost certainty and reduced risk allocation in the contractor's price. With the OJEU process considerable amount of design and works information has to be completed ahead of the Selection Questionnaire (SQ) and Invitation To Tender (ITT) stage, whereas the framework approach allows production of this information during design and with engagement and input from contractors. Using the framework approach allows the project to engage with contractors early to establish buildability and efficiencies that can be taken into consideration during the design and planning stage, reducing the risk of inefficient design and increased build cost.
- 2.9 The detailed design (RIBA stage 4) needs to commence by January 2018 to maintain the current programme timescales. Any delay in starting will impact on the delivery date of 2020, which will subsequently impact the programme for the Thameslink Station and Brent Cross South (BXS) development.
- 2.10 The requirement for detailed design for the WTS building, early works / services engagement is to mitigate any schedule risk and achieve programme certainty, ensuring the successful delivery of the BXT Project, namely the delivery of the New WTS and the associated highways improvement works to the Geron Way Junction. The delivery of the new WTS is critical to the overall BXC programme. It will also have the added benefit of reducing the contractor mobilisation period.
- 2.11 The services of LBB Strategic Construction Partner, Graham Construction, and LoHAC) contractor, Conway Aecom, will be initially procured to provide ECI

services during the detailed design as well as constructability reviews. These reviews will support the development of an integrated design and construction programme, providing cost certainty and ensuring the most efficient construction methodology. Commencement of physical works will be subject to a separate DPR in accordance with the approved recommendation by the ARG Committee on 27 November 2017 that approved commencement of early works is delegated to the Deputy Chief Executive in consultation with the Chairman of the Committee, having regard to the wider BXC programme.

- 2.12 There are a number of pre-commencement conditions included in the Section 73 outline planning permission that must be discharged prior to works commencing on site. Some of these conditions must be discharged by the Implementation Contractor undertaking the works (for example the Demolition and Site Waste Management Plan) hence ECI is essential to maintain programme milestones.
- 2.13 Before the new WTS is operational, the existing junction, Geron Way on the A5, requires improvement works and will be signalised. The necessary detailed design and highway approvals will require close liaison with TfL given the relation to the A5 (which is a Strategic Transport Network road).
- 2.14 There are also a number of utilities that will require relocation to enable the delivery of both the new WTS and the associated highway junction improvement. The design and construction of the highways junction improvement and enabling of utilities diversion is to be undertaken by LoHAC contractor.
- 2.15 At present, the current substation located in the Selco carpark supplies domestic and commercial services to the surrounding area, and the project will need to ensure that supply is maintained with minimal or no interruptions.
- 2.16 To ensure this is achieved, the construction of a new substation in advance of disconnecting the power to the existing substation is essential and a critical piece of enabling work. Consequently, it is important that LoHAC contractors are appointed in January 2018 to undertake surveys and highways design which will also inform the detailed utilities diversion design (C4 process) by UKPN (appointment is led by statutory requirements) that needs to commence by the end of March 2018.
- 2.17 Once the procurement strategy is approved, LBB and the Re project team will put in place the necessary contracts to secure ECI and progress the required surveys and planning documentation such as demolition plan, construction phase plan, site waste management plan and traffic management plan to facilitate the commencement of early works (i.e. utility diversion) in July 2018 and main build in November 2018. It is important to note that the delivery of the WTS is subject to approval of the planning application submitted on October 2017. Commencement of early works and the main contract will be subject to separate DPRs to commission these works once the surveys have been undertaken, detailed design has progressed and the necessary planning and

legal approvals obtained alongside the finalised contract (including greater cost certainty). The cost of progressing this procurement strategy to July 2018 is set out in the resources section.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 3.1 The alternative option considered for the WTS was for this scope to be delivered by a competitively tendered OJEU procurement. However, this would impact the critical path of the programme including achieving key milestones and would also attract a high level of administrative costs. It is therefore recommended to deliver the scope by the LBB framework contractor which has previously been awarded via a competitive tendering process.
- 3.2 The implementation contractor was considered to undertake the detailed design, however, the incumbent designer has detailed knowledge of the scheme and has an integral relationship with the key stakeholder, NLWA. Introducing any changes at this stage of the programme would create significant additional risks and associated costs to the programme. The implementation contractor would also need to review all previous designs prior to carrying out the detailed design, which would also increase the overall programme and therefore, additional costs to the overall scheme. The Council will therefore commission the detailed design works separately.

4. POST DECISION IMPLEMENTATION

- 4.1 Once the procurement strategy as defined in this report has been approved, the Council will be able to commence and subsequently conclude the procurement process and enter into contract with the recommended suppliers (as detailed within this paper). Actual commencement of physical works will be subject to a separate DPR in early spring 2018.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The regeneration of BXC supports the Corporate Plan 2015-2020 priority '*To maintain the right environment for a strong diverse local economy*', and the strategic objective under this priority to sustain LBB by '*promoting growth, development and success across the borough*'.
- 5.1.2 The Growth Strategy for LBB recognises that regeneration and growth are vital for ensuring the future prosperity of the Borough and maintaining LBB as a successful London suburb. The scheme to transform BXC will play a major role in delivering this prosperity, doubling the size of the shopping centre and linking seamlessly to a new town centre for Barnet and North London across the North Circular Road. BXC is one of LBB's priority regeneration areas, and will provide approximately 7,500 new homes over the next 20 years. It is a key part of the wider revitalisation of the A5 corridor, linking BXC with developments at West Hendon, Colindale and Edgware and improvements to Cricklewood Town Centre, to create a series of high quality modern suburbs. The first phases of

the BXC project includes the redevelopment of the shopping centre, creation of major new infrastructure, improved links to the existing tube station, and delivery of around 2,461 new homes over the next 8-10 years. This will create an estimated 3,000 construction jobs, and 4,000 permanent jobs.

5.1.3 As well as meeting the housing and employment needs of residents, growth can play a role in the longer term sustainability of Council services. The first phase of development at BXC is expected to generate approximately an additional 91,500m² of net retail and commercial floorspace, equating to a potential business rate growth for LBB of up to £12.9m per annum. The 2,461 new homes delivered over the next ten years are expected to generate around £21.5m in New Homes Bonus payments and around £3.5m per annum in Council Tax when developed.

5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 The current total approved Capital Budget for Thameslink is £70.55m. This includes £24.7m and £29.2m approved by Policy and Resources Committee in June and September 2017 respectively. The current available budget from 2017/18 onwards is £62.5m. The delivery of the Thameslink works, including land acquisitions, will be funded initially from the existing Council capital budgets and Ministry of Housing, Communities and Local Government (MHCLG) (formerly the Department for Communities and Local Government, (DCLG) grant funding of £97m, which is specifically for Thameslink. The MHCLG Grant Agreement and Greater London Authority (GLA) Funding Letter (agreeing to the ring-fencing of business rates) have now been signed and the first MCHLG grant payment of £6m has now been received.

5.2.2 Once the procurement strategy is approved, LBB and the Re project team will put in place the necessary contracts to secure ECI and progress the required surveys and planning documentation to facilitate the commencement of early works (i.e. utility diversion) in July 2018 and the main build in November 2018. This will require completion of contracts with the consultants and contractors through the existing procurement frameworks. Graham Construction will be procured using the existing Strategic Construction Partner contract and Conway Aecom through the LoHAC framework procured by TfL. These contracts will be reviewed by LBB's Integrated Programme Management Office legal advisors to ensure that the terms take account of the wider BXC programme.

5.2.3 Under the terms of the various agreements, the suppliers will attend monthly project development meetings and provide a monthly cost report to ensure that the contract is monitored correctly and to ensure value for money. Re will manage the various contracts and agreements to ensure that they are delivered within the approved budget and within the agreed timescales.

5.2.4 The agreement can be terminated as stated within the various contracts.

- 5.2.5 This DPR is seeking authority to undertake the early and enabling works alongside the detail design for the WTS as listed in Exempt Appendix 1.
- 5.2.6 These costs are within current total approved Capital Budget of £70.55m for Thameslink.
- 5.2.7 It is anticipated that the early works will begin in spring 2018 to facilitate enabling works to commence in July 2018. Separate DPRs will be prepared by the Deputy Chief Executive in consultation with the Chairman of the Assets, Regeneration and Growth Committee to authorise the commencement of the Thameslink early works (rail and non-rail) subject to progress on the BXC programme as a whole and also for the main build contract.

5.3 Legal and Constitutional References

- 5.3.1 The LBB's power to enter into various arrangements to progress the redevelopment of the BXC scheme is contained in the general power of competence under Section 1 of Chapter 1 of the Localism Act 2011. Section 1 of the Localism Act 2011 provides local authorities with a broad power to do anything that individuals can do subject to any specific restrictions contained in legislation.
- 5.3.2 The Local Government (Contracts) Act 1997 provides an express general power for local authorities to enter into contracts with third parties.
- 5.3.3 Section 111 of the local Government Act 1972 provides a local authority with the power to do anything which is calculated to facilitate, or is conducive or is incidental to the discharge of its functions.
- 5.3.4 Procurement of public works and services contracts over the relevant value thresholds must observe the requirements of the Public Contracts Regulations 2015 (the Regulations), to include the placing of OJEU notices where such contracts are not drawn down from a compliant framework.
- 5.3.5 The Council's Constitution, Article 7.5 responsibility for functions, states the functions of the Assets, Regeneration and Growth Committee, and includes responsibility for regeneration schemes and asset management.
- 5.3.6 At its meeting on the 24 April 2017 the Assets, Regeneration and Growth Committee approved the Station Works Procurement Strategy (attached to that report) and delegated authority to the Chief Executive in consultation with the Chairman of the Committee to finalise the procurement strategy for each work package and authorise commencement of each procurement.
- 5.3.7 At its meeting on the 27 November 2017 the Assets, Regeneration and Growth Committee the Committee was provided an update on the matters now being considered by this Delegated Powers Officer decision;

- 5.3.9 The above decisions of the Assets, Regeneration and Growth Committee provide sufficient authority to the Chief Executive in consultation with the Chairman of the Committee under this DPR to authorise each procurement to be commenced.
- 5.3.10 Article 10 Table B of Council's Constitution sets out the values for procurement activity. In relation to those procurements where the estimated value is between £164,176 and £500,000 awards may be taken by the relevant Council Officer in consultation with the relevant Chairmen (if within budget) and over £500,000 by the Policy and Resources Committee (unless P&R Committee have made a specific delegation to an Officer to award).
- 5.3.11 The overarching Strategic Construction Partnership Contract with Grahams Construction has been procured by the Council following an EU complaint competition tendering exercise and the proposed use of the this contract is within the scope and values permitted through the Contract. The proposed sums are envisaged to be below Article 10 Table B threshold of £500,000. As explained in 5.3.10 further works call-offs, will require a separate Council authorisation.
- 5.3.12 The associated highway services and works can be procured through the use of an EU complaint framework, LoHAC with Conway Aecom. The values of these services and works are envisaged to be below Article 10 Table B threshold of £500,000.
- 5.3.13 It should be noted that there is a prospective January 2018 revision of Article 10 Table B which will have a material and practical effect on any subsequent award procedures.

5.4 Risk Management

- 5.4.1 A risk register has been prepared and will be regularly updated. Key risks identified are:
- 5.4.2 Agreement on design not reached with NLWA. Mitigation - Stage 1 – Agreement in Principal achieved, regular engagement throughout detail design stage planned and not committing to build until agreement reached.
- 5.4.3 Cost increase as a result of scope creep and change of requirements from NLWA. Mitigation – Regular liaison during detail design, design freezes prior to award and commitment for build.
- 5.4.4 Programme delay caused by delay to determination of Planning Application. Mitigation - Detail Design starting at risk and can be cancelled at any stage as being undertaken by Capita.
- 5.4.5 Delays caused by Brent Cross North (BXN) programme delay. Mitigation - unconditional requirement could be changed to exclude start on site for BXN.

- 5.4.6 Timing of the commencement of the services which is prior to both planning and CPO approval. Mitigation - the works can be terminated as set out within the contract notice period and will limit the financial exposure to the Council (LBB).
- 5.4.7 Risk of contractor entering into financial difficulty affecting the delivery programme for the WTS. Regular monitoring of performance will be undertaken by Project team and any early indication giving rise to concern will be highlighted LBB framework manager for further investigation. As Strategic Delivery Partner for LBB, ongoing monitoring is in place in any case.
- 5.4.8 The risk of not undertaking these works is that there could be a delay in securing vacant possession of the Selco site and / or delay in discharging all pre-commencement conditions or any of the activities described within the “Non-Rail Early & Enabling Works Delivery Strategy”. This will create a delay to the overall construction programme for the WTS, which in turn will have a subsequent effect to the overall BXT programme, resulting in additional cost to the overall scheme.
- 5.4.9 This risk of cost and time overruns will be actively managed through regular meetings with the suppliers and monthly reporting reports so that the contract can be monitored to ensure value for money and delivered to agreed timescales. Updates will be provided to the Growth, Regeneration and Operations Board and to the BXC Governance Board.

5.5 Equalities and Diversity

- 5.5.1 The 2010 Equality Act which outlines the provisions of the Public Sector Equality Duty (PSED), requires all Local Authorities to pay due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
 - Advance equality of opportunity between people from different groups; and
 - Foster good relations between people from different groups.
- 5.5.2 This places a legal obligation on LBB to pay due regard to equalities in an appropriate and proportionate manner and to take account of how LBB’s decisions might impact on different groups across the borough including those identified in equality legislation as protected characteristics, namely: Age, disability, gender, gender reassignment, marriage, civil partnership, pregnancy and maternity, sexual orientation and religion or belief.
- 5.5.3 Equality and diversity issues are a mandatory consideration in the decision-making of the Council. This requires elected Members to satisfy themselves that equality considerations are integrated into day to day business and that all proposals put to committees have properly taken into consideration what impact, if any, there is on any protected group and what mitigating factors can be put in train.

5.5.4 The development proposals for the BXC scheme will make a significant contribution to the provision of additional, high quality affordable housing units in the Borough as well as providing employment through the creation of a new town centre with leisure, health and educational facilities. The delivery of the Thameslink Station will enhance public transport provision and improve accessibility and provide greater choice for all. It should be emphasised that a fully integrated and accessible town centre will be created as part of these proposals.

5.5.5 It is important to note that all relevant equalities and diversity issues were considered as part of the original planning application, which was approved in October 2010.

5.5.6 The equalities implications will be regularly reviewed and updated during the life of the project.

5.6 Consultation and Engagement

5.6.1 Planning pre-application consultation with LPA and GLA has been completed prior to the submission of the Planning Application for the new Waste Transfer Station including the associated Highways Improvement and deconstruction of the existing Selco building. A series of Stakeholder Engagement and Public Consultation events took place leading up to the submission of the planning application. The statutory consultation period for the drop in application has recently concluded and LPA are considering the comments and objections received. LBB in consultation with Re have been and are continuing consultation with TfL, LBB Highways, LBB Building Control, LBB Service Deliver team, NLWA, Argent Related, Hammerson and Network Rail.

6. BACKGROUND PAPERS

6.1 Assets Regeneration and Growth Committee 24 April 2017 – insert link , [https://barnet.moderngov.co.uk/documents/s30516/Brent Cross Cricklewood.pdf](https://barnet.moderngov.co.uk/documents/s30516/Brent_Cross_Cricklewood.pdf)

6.2 Assets, Regeneration & Growth Committee, 27 November 2017 (Decision Item 1.41) <http://barnet.moderngov.co.uk/documents/s43550/Brent%20Cross%20Cricklewood%20Update%20Report.pdf>

7. DECISION TAKER'S STATEMENT

7.1 I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations.

8. OFFICER'S DECISION

I authorise the following action

- 8.1 To procure GC as the strategic construction partner to deliver the facility and Conway Aecom through the London Highways Alliance Contract (LoHAC) framework to undertake the associated highways works and undertake the necessary design and surveys to progress the delivery of the WTS in accordance with this Procurement Strategy. Commencement of detailed design and early construction works will be subject to separate DPRs or other relevant council authorisation.**

Signed Chief Executive

Date 18th January 2018