

Agenda Item 6

Executive Member	Councillor Charles Yarwood
Strategic Management Team Lead Officer	Richard Burrows
Author	John Menlove, Building Projects & Maintenance Manager
Telephone	01306 870630
Email	john.menlove@molevalley.gov.uk
Date	31 st March 2015

Ward(s) affected	Dorking North and South	Key Decision	Yes
-------------------------	-------------------------	---------------------	-----

Subject	The process for procuring a contractor for the redevelopment of the Dorking Football Ground, Meadowbank
RECOMMENDATIONS	
<ol style="list-style-type: none"> 1. That the procurement of the principal contractor for the redevelopment of the Dorking Football Ground, Meadowbank via the Scape Framework Agreement as outlined within this report be approved. 2. That the Corporate Head of Service with responsibility for Property be authorised, in consultation with the Executive Member for Assets, to approve the offer made via the Scape Framework Agreement for the construction contract of the Dorking Football Ground. 3. That a further report be submitted to the June/July 2015 Executive meeting regarding the proposed design for the redevelopment of the ground, scope of works and business case. 	

EXECUTIVE SUMMARY
<p>Following Executive approval on 13th January 2015 to move forward with the refurbishment of the Dorking Football Ground, Meadowbank, this report sets out the process and recommendations for procuring a suitable principal contractor for the construction phase.</p> <p>As a result of the tight programme which we are working within and the requirement to provide a usable football facility on the site for the 2016/17 football season, the report seeks Executive approval for the Corporate Head of Service with responsibility for Property in consultation with the Executive Member to receive the tender report and approve the awarding of the construction contract. This will avoid any delay in the programme due to the summer recess.</p>

CORPORATE PRIORITIES

Community wellbeing: Active communities and support for those who need it

1. **Improve opportunities for residents to live active lives.** This redevelopment of the Dorking Football Ground at Meadowbank is seen as a community based project which will provide a range of facilities and activities across a wide age group. It is the Council's long term aim to improve both sporting and leisure facilities within the district as well as promoting healthy lifestyles.
2. **Deliver a programme of inclusive sports and well being activities, which increases participation across all generations, targeting our communities which are most in need.** With a 3G Artificial Grass Pitch (AGP), a multi use sports hall, soft-play area and café and public toilets that support and enhance the facilities of Meadowbank Recreation Park all parts of the community will benefit. Carrying out a full refurbishment of the existing ground with an AGP will allow maximum use of the facility. By developing an AGP and multi-purpose community facility, the facilities will be used and enjoyed by thousands of people every month.

Prosperity: A vibrant local economy with thriving towns and villages.

The site occupies a unique location in the centre of Dorking and is situated on the edge of the conservation area. The design and aesthetic appearance of the buildings will be sympathetic to the area and blend in with their surroundings. The facilities will enhance the town and assist in bringing more visitors.

Look for innovative ways to minimise the cost to taxpayers of Mole Valley whilst protecting the standard of services.

1. Close attention will be paid to the delivery of the project. It is recommended that a recognised framework agreement be used to procure the construction contract which will ensure competitive pricing of the works whilst still achieving the delivery programme within the timescales. The recommended approach will provide open and clear accounting in order to achieve value for money and lower lifecycle costs.
2. Continue to provide quality services to our residents, by creating additional income through making better use of property assets. The development will provide a long term investment for the Council derived from the rental income or through income derived from the range of different facilities on the site. Incorporating design features to allow future flexibility of use, sustainable design resulting in lower running costs and sustainable energy sources will not only have financial benefits but also be an exemplar project demonstrating the Council is a leading organisation in sustainable building design. Ensuring that the proposed uses either pay a reasonable rent for the facilities or directly generate an income stream will assist in a repayment of the initial capital costs of the works over time and support a robust management strategy.

Environment: A highly attractive area with housing that meets local need.

The refurbishment will help protect the environment by reducing the use of natural resources.

1. The existing buildings are not capable of being repaired or economically refurbished. The redevelopment of this site will provide a unique opportunity to give the community a brand new high quality facility for sports and well-being. All the new buildings will be constructed to meet the current levels of sustainability under the building regulations and wherever possible there will be a requirement for materials to be sustainably sourced. Further to this, it is intended to incorporate forms of sustainable energy within the design.

1.00 BACKGROUND/INTRODUCTION

1.1.0 At the Council's Executive on 13th January 2015 approval was given to move forward with the refurbishment of the Dorking Football Ground. Under Contract Standing Order 5.2 this project's value requires the Council's Executive to approve the procurement and contract strategy.

1.2.0 In considering the most suitable procurement route for this project, the following key elements need to be considered:

- a. Compliance with Public Contract Regulations 2015 together with MVDC's own Contract Standing Orders (revised and adopted by Council on 17 February 2015);
- b. Ability to demonstrate value for money;
- c. Complying with the requirements of any grant funding which has either been obtained or is likely to be.

1.3.0 Framework Arrangement

Under an established framework agreement, public authorities are able to streamline the procurement process by eliminating the Stage 1 PQQ selection process, as this has been dealt with as part of establishing the framework agreement. Such agreements may have a number of approved suppliers, or only one. The terms and conditions on which the supplier provides the services under the Framework Agreement have been agreed upfront.

One such Framework Agreement was established by the Scape Group (**Scape**) in 2006 and is a local authority owned company offering a range of professional and construction related national procurement frameworks to local authorities amongst other public sector organisations. By taking a national approach, Scape is able to deliver highly measurable and innovative solutions that stimulate local growth in communities across the UK where around 30,000 small and medium sized enterprises (SME's) are currently employed across the suite of frameworks. Scape also state that 99% of its projects are delivered on budget and 95% are delivered on time. Within this suite is the Major Works Framework which can be used for any type of building construction project with a value of £2 million and

above using the NEC form of contract. Scape appointed Willmott Dixon as the sole supplier under this framework, it having scored the highest overall for cost and quality. Although a national framework, the framework includes a strong local delivery focus, and under the framework agreement, the supplier uses specialist sub-contractors from their supply chain which would enable regard to be given to using locally based companies in delivering the project.

Founded in 1852 Willmott Dixon is the UK's second largest family owned contracting, residential development and property company with a turnover of £1 billion a year. They were the first major contractor to win a Queen's Award for Sustainable Development and the UK's only construction company with Carbon Trust recognition for year-on-year cut in carbon footprint. Their local focus ensures that 75% of project spend is conducted within a 40mile radius of all sites with over £1m a year in time and materials being invested in local community projects.

They successfully won the sole contractor role on the Scape Framework Agreement on two previous occasions with the latest award being made in May 2013. This followed a rigorous selection process which involved Scape undertaking a carefully controlled two stage process which was fully compliant with OJEU and Public Contract Regulations requirements. Scape achieves the most economically advantageous tenders by procuring them on both cost and quality. This enables a single supplier to be selected who will offer the best combination of competitive pricing and the highest quality, backed by a strong local delivery focus.

Over 125 public sector clients procure work through Scape, with projects including a wide range of buildings: schools, care homes, leisure centres and residential buildings.

The principal benefits for using the scape Framework Agreement are:

1. A current average of 14p for every £1 spent is saved across all projects through this procurement, supply chain and early risk reduction savings.
2. Robust validation of construction costs is achieved by early engagement with the framework contractor.
3. The contractor's performance is monitored and captured by Scape at all stages and audited KPI's are reported to the clients.
4. By being part of a £1 billion Scape workload, projects benefit from lower contractor and management fees.
5. A time saving of around 5 months as a result of using an existing OJEU compliant contact.

- 1.4.0 Through the Scape Arrangement for Asset Management, Surveying and Design Services, the consultants Faithful+Gould were appointed as sole supplier following a competitive tendering process which made the selection based on both quality and price. Through this arrangement, Mole Valley District Council have appointed them to provided a range of professional services on the redevelopment of the Dorking Football Ground including: Architectural, Quantity Surveying, Civil and Structural Engineering, Contract Administration, Electrical and Mechanical Engineering and CDM Co-ordination. This appointment which is

also under an NEC form of contract, clearly ties in with the recommendations of this report to use the Major Works part of the Scape framework for the appointment Willmott Dixon as principal contractor. Whilst other framework options for the appointment of the principal contractor have been looked at, the continuity achieved by using Scape for both consultants and the principal contractor is seen as an important ingredient to the on-going success of this project.

1.5.0 The pre-tender estimated cost of the full refurbishment of the ground and the potential inclusion of the Surrey County Football Association headquarters as part of these works and under the same contract, is expected to be above the EU threshold of £4,322,012. As such, the contract would be subject to the full rigour of the Public Contract Regulations 2015 and, under MVDC's own Contract Standing Orders, there is a requirement for the contract opportunity to be competitively tendered or for a framework agreement to be utilised. Were a traditional two stage procurement to be undertaken, the overall programme would be extended by approximately 5 months onto what is already a tight programme for the delivery of football facilities for the 2016/17 football season. Making use of a framework agreement eliminates this stage of the procurement, and makes the delivery programme achievable.

1.6.0 Whilst a two stage restricted procurement route was considered for this project, the use of an established Framework Agreement was considered to be more suitable as it not only ensured compliance with the criteria under 1.2.0 but also achieve the requirements of the delivery programme.

Both the two stage restricted and framework procurement routes are able to demonstrate value for money as in each case the market will have been tested in order to procure the single principal contractor. (Willmott Dixon) Similarly, a robust assessment of the contractor's quality and ability to deliver the project can be demonstrated as both routes have a built in mechanism to review this.

In addition, the various sub-contractors which the principal contractor (Willmott Dixon) uses on the project will be procured via a mini tenders. This will ensure competitive pricing for each of the work packages within the scheme.

1.7.0 MVDC has been successful in securing £500k from Sport England through its Improvement Fund. As part of our successful application, a programme was provided which showed the project would be delivered by the start of the 2016/17 season. In order to draw down on this grant funding, there is a requirement that the grant will be drawn down within 12 months from the date of grant and there is correspondingly further pressure for the delivery programme will be achieved.

Sport England have an established list of specialist contractors for the design and build of new AGP and associated drainage which we will use for the provision of these works. This will ensure that we make full use of the professional expertise within the industry and the new pitch is both designed and built to the highest standard.

The awarding of this grant is seen as an extremely positive move by Sport England who are clearly endorsing the vision we have for the Dorking Football Ground as a community based sports centre.

1.8.0 Delivery Programme

The following sets out the anticipated delivery programme for the project:

Design – pre-planning application

Submission of Planning Application – 20th April 2015

Detailed design and Scope of Works – during the planning approval process

Planning Approvals – Early July 2015

Executive approval of: scope of works, business case – June/July 2015

Tender package to Willmott Dixon – late July 2015

Works commencement – September 2015

Works completion – June/July 2016

- 1.8.1 A decision to accept or not the offer made through the Scape Framework Agreement terms & conditions and the awarding of the construction contract will need to be made in August 2015.

The Executive is therefore asked to authorise the Corporate Head of Service with responsibility for Property in consultation with the Executive Member to receive and approve the offer.

1.9.0 Legal Implications

If Executive approves the use of the Scape Major Works Framework, the construction contract with Wilmott Dixon will use the NEC form of contract. The NEC form of contract is endorsed for public sector use in the UK Government Construction Strategy.

The NEC contract is different from other standard form building contracts, such as the JCT, in that it is founded on a collaborative, project-management approach to construction. It requires all those involved in operating the contract to act ‘in a spirit of mutual trust and co-operation’, properly documented Works Information, and a competent and well-resourced Project Manager and a hands-on client are all correspondingly more important to the success of the project. MVDC will need to take an active role in the project delivery, by being aware of what it is going on, being available to take decisions when required and to actively participate in risk reduction through the early warning process, which is required when anything occurs which could increase prices, delay completion or any other key date or impair the performance of the works in use and the compensation event notification process, where the Contractor notifies the Client about an actual or potential compensation event so as to enable the parties to act/mitigate.

This means that under the NEC contracts, there is less initial cost certainty; however the prices tendered should not have built into them the risk premium that arises when all risks are transferred, or are sought to be transferred, to the contractor, and should result in a less risk of disputes at the end of the contract.

With any procurement process, there is always a risk of challenge. However, provided the Council complies with the terms of the Scape Major Works Framework, and the Executive have properly taken the decision in accordance with public law decision making principles, the risk of a challenge on public law or procurement law grounds is mitigated.

As we are not procuring services, but a works contract, the Public Services (Social Value) Act 2012 requirement to consider at a pre-procurement stage as to:

- (a) how what is proposed to be procured might improve the economic, social and environmental well-being of its district, and
- (b) how, in conducting the process of procurement, it might act with a view to securing that improvement.

does not apply. However, given the policy of making public contracts more accessible to SMEs, consideration should be given to asking Wilmott Dixon to have due regard, when constructing its supply chain, to enable SMEs to participate in the project delivery.

Consideration will need to be given pre-procurement as to whether it is appropriate to require collateral warranties/third party agreements from the construction partner for the benefit of any potential operators or tenants of the facilities.

Subject to the subject, timing and outcome of any grant funding application, the grant may impose further conditions on how grant funded works are procured, in addition to those imposed by procurement legislation. These will need to be taken into account when structuring the procurement, as failure to comply with such conditions gives rise to a claim for repayment of the grant funding.

1.10 **Financial Implications**

The proposal is included within the 2015/16 programme for capital expenditure. It is also consistent with the principles set out in the Council's Medium Term Financial Plan 2014/15 to 2020/21 in making use of the Council's capital assets to generate additional revenue income.

2.0 OPTIONS

The following options are open the Executive:

Procurement

1. Agree to use the Scape framework agreement for the procurement of the principal contractor.
2. Do not agree to use the Scape framework agreement for the procurement of the principal contractor.

3.0 CORPORATE IMPLICATIONS

Monitoring Officer Commentary

The Monitoring Officer is satisfied that all relevant legal implications have been taken into account in the report.

S151 Officer Commentary

The S151 Officer confirms that all relevant financial risks and implications have been taken into account.

Risk Implications

1. There is a risk that the already run down site will continue to deteriorate and become unsafe. Whilst the site has been made secure, there is an ever increasing Health and Safety risk to anyone entering the ground which can only be fully removed by the demolition of the existing buildings and the future redevelopment of the site.
2. There are a number of related risks if we are unable to maintain the delivery programme and have facilities completed and ready for use for the 2016/17 football season. These are:
 - Risk of losing the grant from Sport England
 - Risk of local football clubs being unable to continue in the area without the use of the new facilities at DFC.
 - Loss of income on the site.
 - Continued deterioration of the site along with the cost of providing security.
3. In the event that planning approval is not granted for this project, the design work that will have been undertaken along with associated consultant's fees will be abortive work. In mitigation, initial meetings have taken place with the council's development control department which have proved to be constructive.

Equalities Implications

The equalities implications for users of the new development will be fully considered as we further develop our operational use for the site. Where appropriate, these requirements will be incorporated into the schedule of works and specification for inclusion in the tender documents.

Employment Issues - None

Sustainability Issues

The report which was approved by the Executive on the 13th January 2015 provided the details of our strategy for providing sustainable buildings as part of the refurbishment with confirmation that the tender documents will stipulate that all materials will be sustainably sourced (where possible) in line with BREEAM principles.

There are opportunities to go beyond minimum building standards when starting with a new design and construction therefore, the new buildings will be more energy efficient than any existing buildings on the site. Mole Valley's planning policies would also require the Council to reduce the carbon emissions of the new build by at least 10% through the use of on-site renewables.

Communications

There is considerable interest in the proposals for the refurbishment of the Dorking Football Ground and as a result active and ongoing communication and engagement with the local football clubs, schools and wider community will continue.

BACKGROUND PAPERS

None