

Decision by Portfolio Holder



Report reference: PLS-001-2019/20

Date of report: 17 June 2020

**Epping Forest
District Council**

Portfolio: Planning & Sustainability – Councillor N Bedford

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Subject: Procurement of additional AECOM technical support in relation to Habitats Regulations Assessment (HRA) work to support the Main Modifications for the emerging Local Plan

Decision: That, in accordance with paragraphs 5.2(c) and 5.5(c), the Procurement Rules be waived to obtain additional technical support from AECOM in the sum of £35,000 plus VAT to deliver the HRA work required for the Proposed Main Modifications Consultation required as part of the Epping Forest District Local Plan Independent Examination.

ADVISORY NOTICE:

*A Portfolio Holder may not take a decision on a matter on which he/she has declared a Pecuniary interest.
A Portfolio Holder with a non-pecuniary interest must declare that interest when exercising delegated powers.*

I have read and approve/~~do not approve~~ (delete as appropriate) the above decision:

Comments/further action required: NONE

Signed: Councillor N Bedford

Date: 25th June 2020

Non-pecuniary interest declared by Portfolio Holder/ conflict of non-pecuniary interest declared by any other consulted Cabinet Member:

None

*Dispensation granted by Standards Committee:
Yes/No or n/a*

N/A

Office use only:

Call-in period begins: 25th June 2020

Expiry of Call-in period: 2nd July 2020

***After completion, one copy of this pro forma should be returned to
Democratic Services IMMEDIATELY***

Reason for decision:

The hearing sessions for the Independent Examination of Epping Forest District's Local Plan concluded on 11 June 2019. The Inspector wrote to the Council on 02 August 2019 with her initial advice as to what further Main Modifications (MMs) are required (beyond those identified during the Hearing Sessions) and articulating where additional work was required by the Council to establish their precise form. One critical area of further work following the Inspector's advice,

is the Habitats Regulations Assessment (HRA), including in relation to the effects of air quality on the integrity of the Epping Forest Special Area of Conservation (EFSAC) and the requirement to conduct a Sustainability Appraisal and Habitats Regulations Assessment on the effects of the MMs.

The Council responded to the Inspector (letter dated 11 October 2019) providing an outline of the Council's proposals for progressing the work necessary to finalise the MMs and an indicative timetable to assist with programming the remainder of the Examination and has since provided regular updates on progress to the Inspector. This includes the provision of the Methodology Review for the HRA for the Local Plan in March, and in April an update on progress in relation to the Inspector's Actions and revisions to the Programme to reach the MMs consultation stage.

In Order to deliver the MMs Consultation, the Council will require additional specialist technical input from AECOM to deliver the HRA work. Given the nature of the work needed, it is neither practical nor desirable to seek alternative quotes at this stage. To do so would introduce unnecessary delay in progressing the Local Plan towards adoption and would not be efficient given AECOM's considerable technical input into these workstreams to date.

Options considered and rejected:

Option – to pursue competitive tendering for technical support to prepare for the MMs Consultation.

It is neither practical nor desirable to seek alternative quotes for this work given that the Council has an existing relationship with the consultants involved and the nature of the work is an extension to previous work that has already been carried out.

Option – to not commission any consultant support to prepare for the MMs Consultation.

If no technical support is commissioned, the Council could risk failure of the Local Plan at Independent Examination which would have serious implications for the Council and may result in government intervention.

Background Report:

1. Hearing Sessions for the Independent Examination of Epping Forest District's Local Plan concluded on 11 June 2019. The Planning Policy Team has since been preparing a schedule of proposed MMs required to make the Local Plan sound and therefore fit for adoption. Many of proposed MMs were discussed at the Examination hearing sessions which ran from February 2019 to June 2019.
2. Further to the hearing sessions, the Inspector wrote to the Council on 02 August 2019 with her initial advice as to what further MMs are required (beyond those identified during the Hearing Sessions) and outlining where additional work will need to be done by the Council in order to establish the precise form of some of the MMs.
3. The Council responded to the Inspector (letter dated 11 October 2019) providing an outline of the Council's proposals for progressing the work necessary to finalise the MMs and an indicative timetable to assist with programming the remainder of the Examination. The Council has since provided regular updates on progress to the Inspector. This includes the provision of the Methodology Review for the HRA for the Local Plan in March and, in April, an update on progress in relation to the Inspector's Actions and revisions to the Programme to reach the MMs consultation stage. These updates can be accessed on the Examination website at www.efdclocalplan.org.

4. In Order to deliver the MMs Consultation, the Council has commissioned external consultancy support to deliver specialist technical input and to supplement the in-house professional Officer resource given vacancies within the Planning Policy Team. Specialist technical input is specifically required to undertake further Habitats Regulations Assessment (HRA) work at the request of the Inspector, including in relation to the effects of air quality on the integrity of the Epping Forest Special Area of Conservation (EFSAC) as well as to conduct a Sustainability Appraisal and Habitats Regulations Assessment on the effects of the MMs.
5. Within Portfolio Holder report PLS-005-2019/20 dated October 2019 the Council detailed its best estimate, at that time, of the technical consultancy support required in order to update the HRA and support the proposed MMs. All this work is now well advanced and, as outlined in the April update to the Inspector, the Council is working towards going out to MMs Consultation in late October 2020. In relation to the HRA work specifically, a figure of £60,000 (excl. VAT) was outlined within the October Portfolio Holder report. The Planning Policy Team has determined that further AECOM support, in excess of the £60,000 in the October report, is required to sufficiently advance the HRA related work in order to fully respond to the requests of the Inspector and reach MMs consultation. Extra technical input required from AECOM includes the re-running of a number of modelling scenarios due to revisions to the air quality modelling systems employed and to incorporate newly updated traffic data. It is also necessary, beyond the work scoped and covered in the October Portfolio Holder report, to run at least six new traffic and air quality modelling scenarios to test potential mitigation measures. The further HRA work required from AECOM to meet the requests of the Inspector and thus advance the Local Plan to MMs Consultation is quoted at £30,400 + VAT. This figure does not include any contingency and in order to allow for this the recommendation is for up to £35,000 to be agreed to support the ongoing work.

Procurement Rules – sections to be waived

6. Given the nature of this extra support needed and that it is engrained within the work already commissioned with AECOM, it is neither practical nor desirable to seek alternative quotes at this stage. In accordance with paragraphs 5.2(c) and 5.5(c) of the Procurement Rules, the consultants are most appropriately placed to deliver this further element of work due to their history of producing work for the Council to support the Local Plan.
7. Having determined that the existing relationship and nature of the work to be commissioned under the paragraphs identified above, authority is sought to waive Procurement Rules (2016) paragraphs 2.9 and 10.1, both in relation to seeking quotes via competition.

Resource Implications:

Funding for this work falls within current agreed budgets to support the Local Plan Examination. Consultant fees are in line with original tenders, and the budgetary position will continue to be monitored.

Legal and Governance Implications:

Independent Examination is a statutory element of the Plan making process and will dictate whether the Local Plan is adopted.

The details of the approach taken in respect of the Procurement Rules (2016) is set out within the report above.

Safer, Cleaner and Greener Implications:

Preparation of the Local Plan is in accordance with the Council's approach to the "Safer, Cleaner, Greener" agenda.

Consultation Undertaken:

Corporate Procurement Officer

Background Papers:

None

Impact Assessments:

N/A

Risk Management:

The Examination of the Local Plan is the key stage in the Local Plan process and will dictate whether the Local Plan is adopted. The Planning Policy Team will work closely with the consultants to manage the preparation of this work.

Key Decision Reference (Y/N): n/a

Equality Analysis:

The Equality Act 2010 requires that the Public Sector Equality Duty is actively applied in decision-making. This means that the equality information provided to accompany this report is essential reading for all members involved in the consideration of this report. The equality information is provided at Appendix 1 to this report.