

 Executive Committee 18th December 2019		Agenda Item No. 10
Title	Exemption to procure support for the Future High Streets Fund application.	
For further information about this report please contact	Dave Barber Dave.barber@warwickdc.gov.uk Guy Collier Guy.collier@warwickdc.gov.uk	
Wards of the District directly affected	Brunswick Clarendon Willes	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	3 rd October 2019 Minute No. 56	
Background Papers	None	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	No
Equality Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive		Chris Elliot
Head of Service		Dave Barber
CMT		Chris Elliot, Andrew Jones, Bill Hunt
Section 151 Officer		Mike Snow
Monitoring Officer		Andrew Jones
Finance		Mike Snow
Portfolio Holder(s)		Cllr Rhead
Consultation & Community Engagement		
Stakeholders have been engaged throughout the preparation of bids to the Future High Streets Fund. A limited amount of soft market testing, supported by engagement with Warwick Business School has informed this paper.		
Final Decision?	Yes	

1. **Summary**

- 1.1 This report requests an exemption to the normal procurement process to secure consultants to support Warwick District Council's application to the Future High Street Fund.
- 1.2 The report provides Members with an update on guidance for completing an application, which has been released by Ministry of Communities, Housing, Local Government (MCHLG). This guidance has made clear that a normal procurement process will not be compatible with MCHLG requirements.

2. **Recommendations**

- 2.1 That Executive approves an exemption to the regular procurement process to appoint consultants in excess of £50,000, to support the development of the bid to the Future High Streets Fund.

3.0 **Reasons for the Recommendations**

3.1 Recommendation 2.1

- 3.1.1 Warwick District Council was awarded £75,000 by MCHLG to develop its application to the Future High Streets Fund in August 2019.
- 3.1.2 Since the award of funding the Council has appointed a Programme Manager Town Centres to coordinate the application (in post 18th November). A further stakeholder workshop to help inform a shortlist of possible projects that will form the basis for the application was held on 18th November 2019.
- 3.1.3 MCHLG has also published key guidance documents including an FAQ and application form template. This includes the weighting for scoring of applications, which is as follows:

Assessment criteria	Weighting %
Value for Money (in accordance with HMT guidance, and departmental guidance where applicable)	50%
Strategic fit of the proposal	20%
Deliverability (made up of the commercial, financial and management cases)	30%

- 3.1.4 The guidance documents identify a number of methods to demonstrate value for money including (and not limited to):
 - Demonstrating significant land value uplift deriving directly from the scheme.
 - Identifying and quantifying non-monetisable benefits e.g. perceptions of the high street, wellbeing, community cohesion.
 - Central Benefit Cost Ratio (BCR) based on HMT Green Book/ MCHLG Appraisal Guide, supported by high quality evidence, for both the total project and each discreet element.
- 3.1.5 These methods will require specialist expertise to deliver a business case in line with HMT standards.
- 3.1.6 Depending on the final projects proposed specialist support may also be required to provide input on highways.

- 3.1.5 Engagement with the funder has also made clear that the Council's consultants are expected to attend a 'kick off' meeting with MCHLG in January 2020 (date to be determined). The meeting is a critical opportunity to build a relationship with the funder and enable consultants to ask questions to inform the bid. No further meetings between the funder and consultants have been proposed.
- 3.1.6 Since the award of £75,000 MCHLG also announced an opportunity for Councils who had not received the full allocation of £150,000 that was available to apply for a top up.
- 3.1.7 Responding to the guidance above the Council has submitted an application for an additional £75,000.
- 3.1.8 The impact of these changes significantly restricts the ability of the Council to undertake a normal procurement process. This is because:
- The Council's final bid to Future High Streets Fund will be significantly weakened if consultants are unable to meet with the funder.
 - The Council does not currently know what level of funding will be awarded to support this work.
- 3.1.9 A standard procurement process would provide 30 days for consultants to respond to an opportunity, to ensure fair access to the opportunity. This is not possible if the Council wishes to have a consultant in place for a January meeting.
- 3.1.10 Officers have identified two possible frameworks, ESPO and Crown Commercial Services. Frameworks provide public sector bodies with an opportunity to procure companies from pre-selected lists. However, the Crown Commercial Services framework requires a mini-competition before awarding. There is not enough time to complete this exercise.
- 3.1.11 The ESPO framework does allow for contracts to be directly awarded (i.e. without competition). However, an initial review of consultants on the framework has not identified suitable candidates.
- 3.1.12 Therefore, in order to positively respond to these challenges, an alternative procurement route is sought.
- 3.1.13 Should the Council be unsuccessful in its bid for additional funding, or not receive the results of its bid prior to the January meeting, the Council will procure a consultant utilising the remainder of the budget that has already been agreed by MCHLG and this can be done via an exemption from the S151 Officer.
- 3.2.1 The alternative procurement route will require Officers to identify suitable companies and invite them to respond to a high level brief.
- 3.2. Conversations with stakeholders have helped identify consultancies with the track record to deliver the work and key criteria to assess possible tenders. These include:
- Experience of consultants delivering the work and proposed number of days.
 - Track record and frequency of delivering Green Book standard appraisals.
 - Track record of engaging with MCHLG.

- Capacity to deliver work to time and quality.

3.2.3 These criteria will be used to inform a brief to select a consultant with a direct award.

3.2.4 However, until the list of projects to be proposed to the funder have been agreed it is difficult to agree the detail of any brief/ evaluation matrix. Furthermore, the Council does not currently have the capacity to assess the economic competency of consultants.

3.2.5 Prof. Nigel Driffield, Warwick Business School, has agreed to act as a 'critical friend' to the procurement process, to help inform the brief and assessment of consultants.

3.2.6 It is therefore proposed that a brief is written in consultation with the Portfolio Holder Environment and Business, and with support from Prof. Driffield, that responds to the emerging project and funding picture.

3.3.1 The fluid nature of the brief restricts the Council's ability to determine the scope and budget of the work.

3.3.2 It may be possible that the work is best delivered in a number of discreet packages, each totalling less than £50,000. In this case the consultants will be procured under existing authority of the S151 Officer.

3.3.3 However, it is also likely that at least one work package will be up to the value of £93,000. Soft market testing with two companies (identified by stakeholders) have suggested the value for money exercise could cost £40,000 - £60,000. A more complete provision of services including bid writing, management case etc could cost up to £93,000.

3.3.4 An exemption is required to award contracts above £50,000 without undertaking a competitive procurement exercise.

4.0 Policy Framework

4.1 Fit for the Future (FFF)

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

FFF Strands		
People	Services	Money
External		
Health, Homes, Communities	Green, Clean, Safe	Infrastructure, Enterprise, Employment
<u>Intended outcomes:</u>	<u>Intended outcomes:</u>	<u>Intended outcomes:</u>

Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	Dynamic and diverse local economy Vibrant town centres Improved performance/ productivity of local economy Increased employment and income levels
Impacts of Proposal		
None	A successful application to Future of the High Streets Fund has the potential to bring about environmental improvements in Leamington Town Centre including air quality and public realm	A successful application to the Future High Streets Fund will provide new infrastructure to support Leamington Town Centre.
Internal		
Effective Staff	Maintain or Improve Services	Firm Financial Footing over the Longer Term
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money
Impacts of Proposal		
None	None	Procurement process is dependent on external funding. Exemption will increase income raising opportunity.

4.2 **Supporting Strategies**

The final application to the Future High Streets Fund will align with a number of strategies including the emerging car parking strategy, the Local Plan (and any review of this), the Creative Quarter Big Picture.

4.6 **Impact Assessments**

None

5. **Budgetary Framework**

5.1 Funding for this work will be provided by MCHLG.

- 5.2 There is approximately £18,300 remaining from the initial award of £75,000, following the deduction of salary and on-costs for the Programme Manager position. Should the Council be successful in applying for additional £75,000 funding, the total amount available would be £93,300.
- 5.3 As referred to in paragraph 3.1.13, 13 should the Council be unsuccessful in its bid for the additional £75,000 funding, or not receive the results of its bid prior to the January meeting, the Council will procure a consultant utilising the remainder of the £18,300 budget.

6. Risks

- 6.1 Consultants not appointed in time for kick off and therefore not able to ask MCHLG questions and build relationship.
- 6.2 Consultants not appointed in time to make meaningful contribution and therefore weaker proposal submitted.

7. Alternative Options considered

- 7.1 An alternative option would be to proceed with an open competition. The Council would be unable to secure consultants in advance of a January meeting with MCHLG due to requirements on the timeframes of running a competition. This would significantly weaken the final proposal (see above).
- 7.2 While there are no legal restrictions on a shorter competition (i.e. providing one week to respond) this could lead to challenges. Potential providers could argue that the process is unfair as some consultants have already been engaged in soft market testing exercise and are therefore able to respond in the timeframe.
- 7.3 Another alternative option would be to directly award through an existing procurement framework. It is possible to award directly through the ESPO framework. However, a review of relevant Lots and companies on the framework has suggested that it is unlikely that a suitable company would be secured.
- 7.4 The Council could consider undertaking the work in-house. However, it currently lacks the capacity to do so. Conversations with the County Council have also indicated that they do not have the capacity to undertake the work.