

 Executive – 3 April 2019		Agenda Item No. <h1 style="text-align: center;">4</h1>
Title	Employer's Agent for New Housing Programme	
For further information about this report please contact	Ken Bruno Housing Strategy & Development Manager Ken.bruno@warwickdc.gov.uk	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?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, with the exception of confidential Appendix One which includes information relating to the financial or business affairs of any particular person.	
Date and meeting when issue was last considered and relevant minute number	Executive – 30 th August 2018 Minute reference 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)	Yes Ref 1008
Equality Impact Assessment Undertaken	No
Not applicable	

Officer/Councillor Approval		
Officer Approval	Date	Name
Deputy Chief Executive	18/03/2019	Bill Hunt
Head of Service	04/03/2019	Lisa Barker
CMT	18/03/2019	Chris Elliott
Section 151 Officer	18/03/2019	Mike Snow
Monitoring Officer	18/03/2019	Andrew Jones
Finance	19/03/2019	Andrew Rollins
Portfolio Holder(s)	18/03/2019	Cllr Peter Phillips
Consultation & Community Engagement		
Not applicable.		
Final Decision?		No
Suggested next steps (if not final decision please set out below)		
Recommendation to Council for budget allocation.		

1. **Summary**

- 1.1 This report seeks approval for a budget to enable the procurement of programme management/Employer's Agent support services for a programme of new Council and market housing over the coming years.

2. **Recommendations**

- 2.1 That Executive recommends to Council that a budget for the sum identified in confidential Appendix One be allocated for the procurement of professional support services in the identification, design and build of a programme of up to 500 new homes.
- 2.2 Subject to approval of recommendation 2.1, that Executive delegates authority to the Head of Housing Services, in consultation with the Housing Services Portfolio Holder, to finalise and let a contract for the professional support services.

3. **Reasons for the Recommendations**

- 3.1 In August 2018 Executive agreed to pursue a bid to central government for additional borrowing headroom to finance a programme of circa 340 new Council affordable homes and 107 market homes.
- 3.2 The government subsequently withdrew the additional headroom programme and instead removed the borrowing cap, thus freeing Councils to set their own borrowing limits for the Housing Revenue Account, subject to the Prudential Borrowing Code.
- 3.3 The programme of proposed housing schemes is therefore being taken forward. Some additional advice and support has been obtained from other local authorities with direct development experience and it has become apparent that a key appointment will be that of an Employer's Agent.
- 3.4 There is no single definition of the role of an Employer's Agent (EA). A model used by some Councils with housebuilding programmes is for a comprehensive service covering:
- programme and project management;
 - quantity surveying;
 - civil and structural engineering;
 - principal design;
 - party wall; and
 - clerk of works functions.
- 3.5 With this model the contract is then let for up to a specified number of units (for example "up to 500 completed dwellings") and then, as and when a site comes forward, the number of units is called off and the contractor provides the services for the site. If the site does not proceed to completion the contractor is paid for the work that they have done but the capacity of the contract in terms of unit numbers is not reduced. The unit capacity is only reduced when dwellings are completed. In this way the bulk of the necessary professional support services can all be mobilised on a potential development site with the minimum of delay.
- 3.6 Other specialist services are sometimes required that are not covered by the EA contract but these tend to be site-specific and therefore cannot be predicted in advance. However the EA appointment remains important to these services as

well because the EA will identify the need for such services at an early stage and support the procurement process for the necessary provider.

- 3.7 It is therefore recommended that an Employer’s Agent along the above lines be procured at the earliest opportunity to support the house building programme. It is proposed to let a contract for up to 500 dwellings over seven years. This is a little higher than the original programme referred to in paragraph 3.1 so as to allow some spare capacity for any new opportunities that arise during the contract. The detail of any such new schemes would be brought to Executive for approval in the normal way first.
- 3.8 The final cost for the EA service will be dependent upon the contract capacity in terms of number of dwellings, how many sites are investigated and how many come to fruition. An estimate has been included in confidential Appendix One.
- 3.9 A full OJEU-compliant procurement process will be required for a contract of this size, and this could be achieved relatively quickly and efficiently through a competitive process with a small number of suppliers on an OJEU-compliant framework or Dynamic Purchasing System or by a direct award if the framework permits this.
- 3.10 Subject to approval of the budget requested under recommendation 2.1, and compliance with the Council’s Code of Procurement Practice in selecting the contractor as set out in paragraph 3.9 it is proposed under recommendation 2.2 that the appointment of the contractor be delegated to the Head of Housing Services in consultation with the Portfolio Holder.

4. **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. This report shows the way forward for implementing a significant part of one of the Council’s 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> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	<u>Intended outcomes:</u> Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	<u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/productivity of local economy Increased employment and income levels
Impacts of Proposal		

This proposal will assist in meeting the housing needs of the district.	No direct impact	No direct impact.
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		
The proposal will support staff to gain skills in direct housing development work.	No direct impact.	The proposal will secure savings over procuring an EA for each individual scheme.

4.2 **Supporting Strategies**

Each strand of the FFF Strategy has several supporting strategies:

- The HRA Business Plan contributes to the Fit for the Future transformation programme and assists the Council to deliver its vision.
- The Council adopted the current Housing and Homelessness Strategy in April 2017. This includes objectives around providing suitable accommodation for the homeless in an effort to prevent and reduce homelessness and meeting housing needs through new provision.
- The Housing Revenue Account (HRA) budget and the HRA Business Plan are the financial expressions of the Council's housing policies.

4.3 **Changes to Existing Policies**

This report does not bring forward changes to existing policies.

4.4 **Impact Assessments**

Not applicable.

5. **Budgetary Framework**

5.1 The budget set out in confidential Appendix One is proposed for the contract with expenditure to be spread over a number of years. Inevitably this early in the programme the time-profile of the spending requirement is uncertain and there will need to be flexibility to vire the budget between the years in order to match the timing of the development programme. Indeed, the EA's advice on deliverability will be important in firming up the programme.

5.2 The budget is to be funded through the sources as outlined in Appendix One, which details the available remaining balances as at March 2019. Market housing is to be funded through the General Fund (GF), and the Council affordable housing to be funded through the Housing Revenue Account (HRA).

5.3 It is assumed that the cost of the Employer's Agent work paid for by the General Fund will be recouped through the subsequent sale of the market housing.

6. Risks

6.1 There are no risks involved in allocating a budget for an Employers' Agent but there are two principal risks associated with the procurement of an EA.

6.2 There may be no tenderers, or no suitable tenderers for the contract. The EA market is well-developed and mature and informal soundings suggest that a number of suitable companies would be interested in taking on this work. Consequently this risk is considered to be very unlikely but it would have a very high impact upon ability to deliver the programme of new housing. It will need to be monitored through the procurement process and, should it materialise as an issue, a further report would be brought to Executive to consider the way forward.

6.3 Prices may come in above the allocated budget. The cost estimate has been based upon informal soundings of the market and is thought to be at the higher end of what would be expected for a contract of this size. The risk is therefore assessed as having a low likelihood. The impact is considered to be medium because, although it would create delays it can be managed. Initially negotiation will be attempted with the most competitive bidders. If that cannot achieve an acceptable price then there is the option to reduce the contract capacity down from 500, closer to the current estimate of 450 dwellings. This would ensure that the programme could go forward although it would remove some flexibility. Alternatively a further report could be brought to Executive to increase the budget.

7. Alternative Option(s) considered

7.1 The option of not having any Employer's Agent support has been considered but development of new housing is a technical field that requires specialist support that is not available in-house. This would therefore carry major risks and is not an acceptable option.

7.2 Another option would be to procure Employer's Agents on a scheme-by-scheme basis. However this would be inefficient in terms of timescales, introducing delays at the inception of every potential site. It would also be much more expensive in the long term because significant economies of scale will be gained from procuring an agent for a larger number of dwellings.

7.3 The option of procuring for a smaller number of sites has been considered with a further competitive process a proportion of the way through the building programme. This would allow the contractor's performance to be assessed and ensure that they don't become complacent over time. However this again would be more expensive in the long term due to reduced economies of scale. It would also introduce uncertainty and the potential for a hiatus some way into the programme. Furthermore the same outcomes can be achieved through appropriate contract management, and including break clauses and extension options within a single contract.

7.4 On balance it is considered that procuring an EA for the whole programme is the best option.

8. Background

8.1 None.