

 <b>EXECUTIVE – 8<sup>th</sup> March 2017</b>		<b>Agenda Item No.</b> <h1 style="text-align: center;">13A</h1>
<b>Title</b>	Procurement Exemptions – CIL Viability and Retail Planning	
<b>For further information about this report please contact</b>	David Barber Dave.Berber@warwickdc.gov.uk Policy and Project Manager 01926 456065	
<b>Wards of the District directly affected</b>	All	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	N/A	
<b>Background Papers</b>	N/A	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	Yes
<b>Included within the Forward Plan? (If yes include reference number)</b>	Yes (ref 832)
<b>Equality Impact Assessment Undertaken</b>	Yes

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive	14/2/17	Bill Hunt
Head of Service	06/2/17	Tracy Darke
CMT	14/2/17	Chris Elliott/Bill Hunt/Andy Jones
Section 151 Officer	14/2/17	Mike Snow
Monitoring Officer	14/2/17	Andy Jones
Finance	13/2/17	Mike Snow
Portfolio Holder(s)	15/2/17	Cllr Stephen Cross
<b>Consultation &amp; Community Engagement</b>		
N/A		
<b>Final Decision?</b>		Yes
<b>Suggested next steps (if not final decision please set out below)</b>		

## 1. **Summary**

- 1.1 This report seeks approval for an exemption to the procurement policy to allow the extension of these contracts for a year

## 2. **Recommendations**

- 2.1 That Executive agree to the Extension of the CIL Viability Contract until 30<sup>th</sup> November 2017
- 2.2 That Executive agree to the Extension of the Retail Planning Consultancy Contract until 30<sup>th</sup> October 2017 and the Retail Planning Consultancy Contract until

## 3. **Reasons for the Recommendations**

- 3.1 Recommendation 2.1: This contract has been in place since November 2012. During the contract period a CIL viability assessment was undertaken with a number of subsequent updates to reflect changing market conditions. These assessments form the core evidence base to support the CIL Charging Schedule. It is anticipated that this schedule will be adopted during 2017.
- 3.2 Initially, it was anticipated that the CIL Scheme would be in place prior to the end of the contract. However as it is difficult to implement CIL ahead of the adoption of the Local Plan, delays to the Local Plan have meant that the adoption of CIL has also been delayed.
- 3.3 As a result, it is necessary to extend the current contract until the adoption of the CIL Scheme. This will allow the contractors to provide specialist technical advice on representations made during the consultation period and, if necessary, to appear at the CIL Examination Hearing. It is therefore proposed to extend the contract until 30<sup>th</sup> November 2017.
- 3.4 After that time it is anticipated that there will be a significantly reduced need for ongoing advice relating specifically CIL viability and that any advice that is required can be accommodated within the existing contract for the viability of development proposals with Jones Laing Lasalle.
- 3.5 Recommendation 2.2: This contract has been in place since October 2012. During the contract period a comprehensive retail study has been undertaken to inform the retail allocations and policies in the new Local Plan. The providers have also provided regular retail advice for planning applications.
- 3.6 During 2017, Development Services will be carrying out a new procurement exercise for this service. However, as the current contractors have been instrumental in supporting the development of the Local Plan, it is suggested that the current contract is extended to a date by which Local Plan adoption is likely to have been achieved. This approach will not only ensure the Local Plan policies are robustly justified, but will also provide continuity of the services to support the Development Management function until such a time that a new contract is in place.

3.7 In summary, as the adoption of the Local Plan has taken longer than envisaged when this contract was procured in 2012, the contract needs to be extended to ensure consistency and continuity until the Plan is adopted.

#### 4. **Policy Framework**

4.1 **Fit for the Future** – the contracts support the adoption of the Local Plan and CIL respectively and also play a role in helping to deliver good development through the Development Management process. Retaining these contracts for a limited period of time is therefore closely aligned with the Council’s vision of the District as a great place to live, work and visit.

4.3 **Impact Assessment:** In 2012, both contracts were let in accordance with Code of Procurement Practice to ensure that fair opportunities were provided to all parties. Further, the contracts have ensured that the practices of the contractors comply with the Councils policies. The extension of the contract is not therefore expected to unduly impact on any particular groups.

#### 5. **Budgetary Framework**

5.1 There are no specific costs associated with extending either contract as any work required through the contract will be provide on a day-rate basis. Where further work is required through the contracts, this will, be funded as follows:  
a) CIL viability: within the budget agreed by Executive in June 2016 for the adoption f the Local Plan and CIL  
b) Retail consultancy: from the Development Management budget to support the full assessment of planning applications

#### 6. **Risks**

6.1 There are no risks arising from the recommendations. However, if it was decided not to extend the contracts, there are possible risks as follows:  
a) Adoption of CIL: CIL viability is highly technical. During the current CIL consultation, it is likely that representations will be made that require specialist analysis to ensure they are fully understood and addressed. Failure to do this could put the adoption of the CIL scheme at risk or could leave it more vulnerable to the Inspector requiring modifications  
b) advice and evidence to support assessment of retail-related planning applications: assessing retail-related planning applications requires technical expertise regarding the national local retail market. This is particularly important in resisting out of town retail applications. Without a contract in place there is a risk that high quality technical advice to support the Councils decisions will not be available thereby increasing the risk of losing appeals.

#### 7. **Alternative Option(s) considered**

7.1 Ideally these two contracts would have been subject to a procurement exercise prior to end of the contracts. However this has not been possible due to the pressure to achieve Local Plan adoption as quickly as possible.

7.2 In the case of the CIL viability advice contract, the only alternative option is therefore to proceed through the CIL Examination without expert advice on

viability. For the reasons set out above, this is not considered to be appropriate.

7.3 In the case of the Retail Consultancy contract, it would be possible to instigate a new procurement exercise now, thereby minimising the length of the gap between contracts without extending the existing contract. However this is considered to be a less desirable option for the following reasons:

- Until the Local Plan is adopted, it is appropriate to ensure retail evidence and advice is consistent with the advice provided for plan preparation. This is best achieved by extending the contract until towards the end of 2017.
- As this is an important contract that will have implications for the quality of planning decisions for years to come, it is considered important to undertake a thorough procurement process and that ample time is allowed for this
- This option would leave the Council vulnerable if an important retail application was submitted in the meantime.