

## RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

### **PART 1 – PUBLIC DOCUMENT**

**SERVICE DIRECTORATE:** *Regulatory*

#### **1. DECISION TAKEN**

To approve a variation and extension to the contract awarded to Hyas Associates to continue to provide specialist planning advice and project management support on strategic development sites.

#### **2. DECISION TAKER**

Ian Fullstone, Service Director – Regulatory

#### **3. DATE DECISION TAKEN:**

28 September 2023

#### **4. REASON FOR DECISION**

- 4.1 To allow Hyas to continue supporting the Council in relation to a strategic masterplan for the East of Luton allocations contained in the adopted Local Plan.

#### **5. ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 To not extend the support. This has been rejected as it would leave the Council with insufficient capacity to participate in a collaborative masterplanning process with the landowners (and their representatives) for these sites. The allocations are a key element of the Local Plan which is part of the Council's Policy Framework (as defined by the Council Constitution) and the statutory Development Plan for the purposes of determining planning applications.

#### **6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)**

- 6.1 This decision has been taken in consultation with the Service Director – Resources and the Executive Member for Planning in line with the Council's Contract Procurement Rules.

#### **7. FORWARD PLAN**

- 7.1 This decision is not a key Executive decision and has therefore not been referred to in the Forward Plan.

#### **8. BACKGROUND/ RELEVANT CONSIDERATIONS**

- 8.1 Masterplanning is widely recognised and supported, including in Government planning guidance, as a means of identifying and addressing issues on large-scale sites and setting out a framework for their development.
- 8.2 Hyas Associates were procured under Single Tender Waiver (STW) in August 2021 to "provide expert support for the masterplanning and delivery of strategic and significant development sites in the District".

- 8.3 This was intended to support, and has been deployed to progress, the masterplan for proposed East of Luton development. These sites are allocated for up to 2,100 homes and supporting infrastructure by Policy SP19 of the Council's adopted Local Plan. The policy requires a masterplan for the site to be agreed prior to, or as part of, the grant of planning permission.
- 8.4 Due to delays (i) in completion of the Local Plan and (ii) on this project from the landowner side, the support has extended over a significantly longer period than was initially envisaged.
- 8.5 An updated contract covering the residual of the support was signed in September 2022 for the period to 1 April 2023. That was extended in March 2023 to cover the period to 30 September 2023. To date, the invoiced support from Hyas relating to this STW and project totals approx. £46,200. This broadly aligns with the values identified in the STW and the contracts.
- 8.6 Given the delays in the programme, on-going support is required from Hyas to see the masterplan through to completion. Hyas have provided an estimate for up to £16,120 of additional support based upon approx. 1 day per week support over the next six months to be deployed flexibly as required (excluding VAT and reasonably expenses).
- 8.7 The Council's Procurement Officer has advised that, in the circumstances, it is appropriate to secure this additional support by means of an extension / variation to the contract. This is being progressed in line with the Council's Contract Procurement Rules.
- 8.8 If proceeded with and utilised in full, the extension / variation will bring total anticipated expenditure with Hyas Associates on this project to approximately £62,000. This exceeds the £50,000 threshold for a Recorded Decision.
- 8.9 There is no reasonable alternate to continuing the use of Hyas given their significant accumulated knowledge of the project to date and the requirement for continued capacity support across the planning services.
- 8.10 There is sufficient funding to meet the overall / additional cost from a combination of Government grants and landowner funding from an agreed Planning Performance Agreement (PPA). The PPA contains a review mechanism which can be triggered to consider costs once the project reaches the draft Masterplan stage.

## **9. LEGAL IMPLICATIONS**

- 9.1. Sections 28 and 29 of the Council's Contract Procurement Rules set out the approach(es) to be followed and the conditions to be met in varying or extending an existing contract.
- 9.2. The Procurement Officer has confirmed that the relevant conditions are met for the Service Director, following consultation with the Service Director: Resources and the relevant Executive Member, to vary and extend the contract with Hyas Associates.
- 9.3. Contractual documents have been drawn up by the Council's Contracts Lawyer.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. There are no new revenue implications. Expenditure to date has been met from a one-off grant from the (then) Ministry for Housing, Communities and Local Government (MHCLG) to be utilised on schemes for 2,000 homes or more and from funding towards the masterplan secured from the landowners and their representatives through a Planning Performance Agreement (PPA).

- 10.2 There is sufficient funding to meet the overall / additional cost from a combination of Government grants and landowner funding from an agreed Planning Performance Agreement (PPA). The PPA contains a review mechanism which can be triggered to consider costs once the project reaches the draft Masterplan stage.

## **11. RISK IMPLICATIONS**

- 11.1 Masterplanning is an identified risk on the Council's framework. The identified risks are:

- Risk of poor scheme outcomes that do not appropriately respond to local character and context.
- Risk that strategic sites do not maximise contribution to corporate objectives and priorities of climate change, environment, economy and place.
- Risk of delay to delivery of strategic sites if masterplan process is delayed or stalled or provides insufficient information to guide subsequent planning applications.
- Failure to secure funding to resource the process.
- Reduction in pre-application income and delay to income from planning applications.
- Failure to recruit sufficiently experienced officers.
- Risk of adverse appeal findings on other/non-Local Plan sites if delivery is delayed or stalled.

- 11.2 Securing continued and ongoing support from Hyas Associates is a means of managing and mitigating these risks for the East of Luton allocations.

## **12. EQUALITIES IMPLICATIONS**

- 12.1 None.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1 As the recommendations in the report relate to a contract below £100,000 the "go local" policy has been considered but has not been applied as this is a variation / extension to a pre-existing contract.

## **14. ENVIRONMENTAL IMPLICATIONS**

- 14.1. None.

- 14.2. The allocation of the sites in the Local Plan was informed by a statutory Sustainability Appraisal of the likely social, economic and environmental effects that was considered by the Inspector as part of the Examination.

- 14.3. Due to their scale, any application(s) on these sites would likely represent EIA Development and would be accompanied by a statutory Environmental Statement.

## **15. HUMAN RESOURCE IMPLICATIONS**

- 15.1 None

## **16. BACKGROUND PAPERS**

- 16.1 Report to [Cabinet 16 June 2023](#): Strategic Planning Matters

- 16.2 Report to [Extraordinary Cabinet 02 November 2022](#) & referral to [Extraordinary Full Council 08 November 2022](#): North Hertfordshire Local Plan 2011-2031

16.2 Report to [Cabinet 16 March 2021](#): Local Plan Implementation

**17. APPENDICES**

17.1 None

**NOTIFICATION DATE**

29 September 2023



Signature of Executive Member Consulted .....  .....

Date ...28 September 2023

Signature of Decision Taker ..... 

**Please Note:** that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.

**Call-in does not apply to NON-EXECUTIVE DECISIONS**