

**PORTFOLIO HOLDER FOR ECONOMIC GROWTH,
REGENERATION & TOURISM**

1 August 2025

**REPORT OF DEPUTY CHIEF EXECUTIVE,
CORPORATE DIRECTOR PLACE & WELLBEING**

**A. LEVELLING UP FUND and CAPITAL REGENERATION PROJECTS –
APPROACH TO PROCUREMENT**

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To progress the Carnarvon Terrace (LUF) and Homes for Dovercourt (CRP) projects to delivery by:

- approving the projects to be procured using the Design & Build procurement route; and
- delegating to the Deputy Chief Executive confirmation of the final technical information including Building Contract and tender documentation.

EXECUTIVE SUMMARY

In December 2024, Cabinet approved progressing the Carnarvon Terrace (LUF) and Homes for Dovercourt (CRP) projects through to the procurement of main contractors, and delegated to the Portfolio Holder for Regeneration, Economic Growth & Tourism to agree the procurement approach and documentation required. Planning consent was secured for the schemes between February and April 2025 and the funding envelope was extended by the Ministry for Housing, Communities and Local Government (MHCLG) in April 2025, through to March 2027.

An appraisal has been completed by the Project Delivery Unit in collaboration with the Council's Legal, Governance and Procurement officers and the Essex Procurement Partnership, the Council's contracted Procurement service. This report seeks endorsement for the proposed approach, making recommendations for the **Procurement Route** and **Tender Documentation**, and notes that Officers will undertake the necessary due diligence for the final selection of the **Route to Market and Contract type**.

Procurement Route

Different procurement routes are available in the construction industry which balance time, cost, quality, risk, financing, and constraints differently between the Employer, consultants, and contractors.

The appraisal completed identifies that the strongest contract approach to match TDC's capacity and procurement goals is the Design and Build (D&B) route.

This route is when the contractor completes the design and construction of a scheme, expediting delivery and buildability. This approach is also widely recognised within the industry to provide client benefits through allocating programme and cost risk to the contractor rather than the client. Where D&B is sometimes considered to achieve these benefits by

compromising quality, the Council can mitigate these risks by tendering the scheme on the basis of detailed design information as set out below.

The proposed evaluation criteria have been developed with input from the Essex Procurement Partnership and the Council's appointed Employer's Agent and Quantity Surveyor, and is recommended to be weighted as follows: 60% quality, 30% price, and 10% social value. 10% social value is the minimum weighting required and will be assessed utilising the Essex Procurement Partnership Social Value Calculator as per the Council's adopted Social Value Policy. A higher quality rating allows for a tenderer to be selected who can demonstrate the best alignment with the Council's priorities and deliver value for money, with consideration to the quality of workmanship and services delivered. Value for money and cost control will be allowed through the Design & Build process during the contractor's technical design phase.

Tender documents

It is proposed to tender the project based on Employer's Requirements consisting of the RIBA Stage 3 (Coordinated Design) package prepared by the appointed consultants, as this will provide the necessary mitigation to ensure the Council benefits from the well-recognised benefits of D&B contracts, whilst ensuring quality.

Route to market and Contract type

The main contract procurement can proceed via open tender or framework, using pre-vetted contractors. Similarly, a range of standard building contracts are suitable for the Design & Build procurement routes. To provide the best assurance to the Council and mitigation of project risks, it is noted that officers will conduct due diligence to select both the compliant route to market that best meets the Council's requirements and the most appropriate Building Contract.

It is also worth highlighting that the proposed approach incorporates good project management principles and lessons learned from previous projects, that includes:

- Robust risk management: Evaluating risk exposure and balancing it with the Main Contractor to ensure effective management;
- Board oversight and approvals: Implementing standard change control protocols and improving internal reporting through Highlight and Exception Reports to the Portfolio Holder Working Group.
- Appropriate professional expertise and due diligence: the Council has now formed a dedicated and suitably qualified & accredited Project Delivery Unit, for the delivery of major capital investment such as the LUF/CRP programme. This report is authored with the input of the PDU and will enable the team to conduct the necessary due diligence to fulfil their designated function for the Council.

Next steps

This decision will allow the projects to progress to procurement of the main contractor, who will construct and deliver the scheme through to completion and handover.

A future report will be brought to Cabinet to recommend awarding the contract to the contractor offering the best return, based on evaluation criteria. This process does not commit the Council to any tender. This future report will also outline the Social Value Themes, Outcomes, and Measures (TOMs) in accordance with the Council's Social Value Policy.

RECOMMENDATION(S)

It is recommended that the Portfolio Holder:

- a) endorses Design & Build as the selected Procurement Route for the LUF and CRP projects;
- b) approves that completed RIBA Stage 3 (Coordinated Design) documentation be utilised as the 'Employer's Requirements' for the purposes of procuring the LUF and CRP projects;
- c) notes the Deputy Chief Executive will undertake due diligence, in consultation with the Council's Monitoring Officer and Section 151 Officer, to select the route to market and the Building Contract; and
- d) subject to a)- c) above, approves that the tender exercise be commenced to procure the main contractor for the projects and a preferred contractor be selected against criteria of 60% quality, 30% price, and 10% social value.

REASON(S) FOR THE RECOMMENDATION(S)

To enable the projects to be progressed within the context of a previously agreed delegation and via a broad approach that includes the procurement route, tender documentation selection criteria and acknowledges the necessary due diligence and route to market and contract type.

Project progression will be through final bids / tenders being received that will be subject to further / separate decisions by Cabinet

ALTERNATIVE OPTIONS CONSIDERED

The appendices set out an appraisal of the different options available for approaching project procurement. There are other options which have been considered:

- **Stop the developments now:** Without this decision-making mechanism, Tendring District Council cannot deliver the schemes. While not proceeding would free up officer time for other projects and reduce financial and delivery risks, it would forfeit substantial improvements in Clacton and Dovercourt funded externally, potentially harming future funding opportunities.
- **Delay this decision:** Delaying this decision would hinder the project team from finalising tender documentation and preparing to procure the contract. Such delays increase the risk of programme prolongation, potentially incurring additional costs and jeopardising project funding due to defined expenditure timescales.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Corporate Priorities

The following refers specifically to the procurement route appraisal. For details on the wider projects, please refer to the December 2024 Cabinet Report.

- **Pride in our area and services to residents:** Getting the basics right: By delivering high quality projects that boost pride in our area and provide a high quality of service to our residents through the delivery of competent project and contract management;
- **Championing our local environment:** Through the procurement of competent contractors that utilise appropriate environmental measures;

- **Raising aspirations and creating opportunities:** This report directly relates to milestone B2 Implement Levelling Up Fund, Capital Regeneration Partnership Projects and High Street Accelerator Schemes;
- **Celebrating business success, encourage cultural, tourism and economic growth:** Through appropriate and effectively enforced social value deliverables creating local skills and training opportunities. Local procurement will be championed within the contract documentation to further support the principles of the Social Value strategy
- **Financial Sustainability and openness:** Through the delivery of competent project and contract management including appropriate internal reporting and escalation of matters outside the defined project tolerance to the appropriate decision makers within TDC.

Social Value Policy

The Social Value Policy adopted by Full Council in November 2024 will be adhered to on all contracts over £100,000.

Part 5 Constitution – Procurement Procedure Rules

The proposed approach to procurement set out within this report complies with the Council's Procurement Procedure Rules as the Department has satisfied themselves, prior to undertaking procurement, that:

- The works, goods or services are required, and a need can be demonstrated;
- As the procurement relates to building works, the requirements continue to be discussed with internal surveyors;
- There is no suitable Internal Provider / Contractor that meets the procurement need;
- There are suitable catalogue / central contract / frameworks or Government sponsored lists in place that meet the procurement need;
- Where relevant, they have considered the requirements of the Public Services (Social Value) Act 2012 and have recorded/evidenced the outcomes against the associated requirements;
- This report recommends authorising the relevant Corporate Director, in consultation with the Monitoring Officer and Section 151 Officer, to agree the procurement route.

OUTCOME OF CONSULTATION AND ENGAGEMENT (including with the relevant Overview and Scrutiny Committee and other stakeholders where the item concerns proposals relating to the Budget and Policy Framework)

Essex Procurement Partnership

The proposed procurement approach has been developed through collaborative working between TDC officers and colleagues within the Essex Procurement Partnership (EPP), a shared service that brings together procurement expertise and support across the county. EPP provides:

- Support for framework procurement;
- Lessons learned from previous similar procurement, including experiences of open tender processes which indicate this may be unacceptably resource intensive;
- Support with market engagement with potential contractors.

Market engagement

In line with best practice embodied within the Procurement 2023 Act, the project team are undertaking market engagement with potential contractors prior to seeking to tender the project. Market engagement will continue in the next stages as part of appraising the specific framework to be utilised for procurement.

Governance

The proposed procurement approach was presented to the Council's internal Governance team in early January 2025 for discussion, including representatives from Legal, Procurement and Finance. Key considerations included:

- Discussion of implications of upcoming change in Procurement Legislation and how this has been factored into the proposed approach;
- Recognition of member scrutiny on contract management and the importance to demonstrate institutional learning and implementation of Project Delivery Unit, following past experience with contract management;
- Consensus around importance to consider framework approach including county frameworks where possible.

Internal Council engagement

Liaison continues internally with operational teams within the Council discussing both the final outcome and the logistical process of construction. This process will continue including once a contractor has been procured.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	NO	If Yes, indicate which by which criteria it is a Key Decision	☐ Significant effect on two or more wards ☐ Involves £100,000 expenditure/income ☐ Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	17th January 2025

Context

Details in relation to the funding agreements are provided in earlier reports, particularly the report of October 2023.

Procurement

The Procurement Act 2023 should come into effect in February 2025 and thus is applicable to the procurement subject to this report, as this will proceed after the Act has become law.

Contract type

Any form of Building Contract used is required to comply with the Housing Grants, Construction and Regeneration Act 1996 (commonly referred to as the 'Construction Act') including October 2011 amendments, in relation to payment terms, dispute resolution and other matters; as well as changes brought in by the Building Safety Act 2022 around duty holders. Frameworks will usually specify the type of contract and any permissible amendments.

Social Value

The Council's adopted Social Value Policy will be followed for all procurement relevant to this decision, which ensures compliance with:

- The Public Services (Social Value) Act 2012
- Local Government Act 1988, Section 17(1)
- Public Contract Regulations 2015
- Procurement Act 2023 (when in force) and National Procurement Policy Statement, once published by government
- Local Government Association Toolkit 2022

Governance

Informed by learning points identified within the report.

The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:

It is appropriate that officers support the Portfolio Holder in undertaking the delegation provided by Cabinet at its meeting in December 2024. The due diligence and assessments on suitability as to the appropriate framework and contract terms and conditions should be undertaken by officers at the operational level, following the Portfolio Holder's strategic direction. Whilst Essex Procurement Partnership provide the advice and support, the District Council remains the Contracting Authority.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The total for the schemes to be directly delivered by the Council is £19,743,739 for the Carnarvon Terrace LUF scheme and £3,798,751 for Homes in Dovercourt CRP scheme. This will include all project costs incorporating both the Contract Value of the Main Building Contract. This report sits within the budget already assigned to the projects and does not include or require the allocation of additional budget. There are therefore no implications resulting from this report and the considerations below relate primarily to the relative financial risk attached to the different procurement routes appraised.

Financial implications and risk

This report highlights a preferred 'direction of travel' in terms of the procurement strategy for this project. A summary is included in the 'reasons for recommendation section' and a graphic risk-apportionment profile is included in the appended document. The proposed Procurement Route has been appraised considering the exposure to financial risk that the chosen Route presents to the Council. D&B is considered most reliable certainty in terms of final cost, offering the Council greater confidence in terms of the financial commitment of the project at the point of entering contract.

Due to concerns about the performance of the consultant appointed as Employer's Advisor and Quantity Surveyor, their appointment was terminated in January 2025. A procurement exercise to refill this role was completed in March 2025 and the successful tenderer instructed. There was a minor uplift in fee attached to the role due to the reprocurement, within the tolerances of the budgeting set out to date and considered justified given the improved services and confidence that the reprocurement is intended to provide. The consultant has provided updated cost information including benchmarking which demonstrate that the projects are deliverable within the above budgets.

Procurement

The proposed Procurement Route has been appraised considering the exposure to financial risk that the chosen Route presents to the Council. D&B is considered most reliable certainty in terms of final cost, offering the Council greater confidence in terms of the financial commitment of the project at the point of entering contract. This is reliant on minimising change post-contract hence the importance placed on robust Employer's Requirements.

In relation to the frameworks under consideration, due diligence will include an assessment of the financial implications, if any, of the different frameworks. At present those under consideration would not present a financial implication to the Council as the fees and charges relating to the framework are carried by the supplier.

Resources and capacity

The internal resource for capital delivery is now consolidated within the Project Delivery Unit as established by Cabinet in July 2024. The team includes a range of roles with expertise across capital delivery, construction, local authority procurement, contract management and project management. The budget for the necessary internal capital delivery resource is subject to other relevant decisions in particular the report to December 2024 Cabinet and therefore is not discussed here. In relation specifically to procurement, reference should be made to the July 2024 Cabinet (Minute No. 32).

The shared approach to procurement with EPP has been the subject of previous decisions and referred to in the report to Cabinet on the Social Value Policy in November 2024. The Procurement Procedure Rules require contracts more than £50k to be procured through an Invitation to Tender, procured centrally with EPP. Engagement is ongoing with EPP colleagues for the procurement and their input and advice is captured within this report.

☐	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
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Similarly to comments set out in earlier reports, the proposed actions reasonable seek to provide best value and protect the Council from associated risks. The overall funding / financial position relating to the projects will need be subject to on-going review, with the next significant milestone being the outcome from the associated procurement process, which allows a further timely opportunity to revisit the underlying funding / financial position along with any associated / required decision making as necessary before any final contractual commitments are made.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Covered within the body of the report
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Covered within the body of the report
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Covered within the body of the report

MILESTONES AND DELIVERY

Progress to date

- Consultant team inception: Q2 2024/5
- Project brief defined: Q2 2024/5
- Public engagement – Q2-3 2024/5
- Detailed Planning Application Lodged – Q3 2024/5

Forward Look

- RIBA Stage 3 (Spatial Coordination) design completed: Q4 2024/5
- Stage 3 Cost Plan – Q4 2024/5 (costed-design)
- Planning Approval: Q4 2024/5
- Tender Documentation and Employer's Requirements Produced: Q1/Q2 2025/6
- Executive decision to release Tender Information for Main Build Procurement: Q2 2025/6
- Contract Sum Analysis: Q2 2025/6 (costed and benchmarked)
- Cabinet Approval to accept preferred tender and enter contract: Q2 2025/6
- Construction start on site: Q3 2025/6
- Construction period: 15 – 18 months

Resource is allocated within the Project Delivery Unit ensuring sufficient capacity by suitably experienced and qualified personnel is committed to deliver this decision, working with the support of the external consultant team appointed for the project.

MHCLG confirmed in April 2025 an extension to the funding agreement, through to March 2027, bringing the funding period in line with the reported delivery timescales.

ASSOCIATED RISKS AND MITIGATION

Key risks highlighted relevant to procurement and procurement routes: Further appraisal of risk specific to each option of procurement route is included within appraisal in the appendices. The risks and mitigation measures have been informed by recent post-project reviews by the Council and the learning points identified.

	Risk	Impact	Likelihood	Mitigation
1	Funding period	5	1	Extension through to March 2027 brings funding envelope in line with delivery period
2	Budget	5	3	QS consultant appointment terminated and subject to procurement of replacement to ensure timely and accurate cost plans moving forwards, market engagement informing cost profile; D&B recommended as considered by industry to provide greater cost certainty during course of construction.
3	Programme	5	3	D&B recommended as can be up to 30% faster during construction; Risk transferred to Main Contractor during Building Contract under D&B
4	Resource	4	1	Funding allocated through PDU for additional procurement and legal resource; Procurement approach selected cognisant of available resource to manage burden

5	Procurement	5	1	Market engagement by EPP to test potential interest and issues prior to procurement; PCSA to support buildability and attractiveness of tender to market
6	Quality of outcome and significance of project to the Council	4	2	'Develop & Construct' model of D&B selected to ensure sufficiently detailed Employer's Requirements to ensure high quality outcome alongside other benefits; Due diligence into Main Contractors and use of framework to ensure they have the suitable competence and experience
7	Suitability of framework	4	1	Due diligence ongoing into different options; Option of Open Tender remains in instance that suitable Framework is not identified
8	Consultant underperformance	4	3	The relevant consultant appointment has been terminated and a replacement procured and instructed.
9	Site conditions	5	2	Detailed and extensive site investigations completed including invasive investigations; enabling works contracts prior to main construction to derisk ground conditions

EQUALITY IMPLICATIONS

Having undertaken an equalities impact assessment, the conclusion is that the proposal does impact on the protected characteristics. EQIAs have been developed; refer to the Cabinet report dated 23 June 2023.

SOCIAL VALUE CONSIDERATIONS

The procurement will be subject to the Council's Social Value Policy adopted November 2024.

IMPLICATIONS RELATED TO DEVOLUTION AND/OR LOCAL GOVERNMENT REORGANISATION

The procurement process will be completed in advance of the timescales of Local Government Reorganisation, as will the main construction works. Officers are currently working on the wider implications of Local Government Reorganisation to the scheme including future management of the housing delivered.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2050

The procurement will be carried out in line with the Council's adopted Social Value Policy, which includes measures relating to carbon reduction, waste minimisation and other matters relevant to the Council's Climate Action Plan and is therefore foreseen to present positive implications. For further detail on the sustainability measures within the design, please refer to the December 2024 Cabinet Report.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder

The procurement strategy could affect delivery timescales, which

	could increase crime and disorder risks due to site inactivity.
Health Inequalities	Not relevant to procurement route.
Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance)	
Area or Ward affected	Pier Ward and Harwich & Kingsway Ward, when delivery begins.

PART 3 – SUPPORTING INFORMATION

BACKGROUND
Not considered appropriate to subject matter or significance of the decision
PREVIOUS RELEVANT DECISIONS
A full list of previous decisions relevant to the LUF/CRP programme is available in the December 2024 Cabinet Report. 6 October 2023; Cabinet: Levelling Up Fund and Capital Regeneration Projects - Progressing the Projects to Planning Permission (11879) 24 May 2024; Cabinet: Update on LUF / CRP (12439) - November 2024; Executive Decision: Planning Submission for the CRP Funded project at Milton Road Car Park, Dovercourt (12962) - December 2024; Executive Decision: Planning Submission for the LUF Funded project at Carnarvon Terrace, Clacton-on-Sea (13060) - December 2024; Executive Decision: Planning Submission for the CRP Funded project at Victoria Street, Dovercourt (link) - December 2024; Cabinet: Progressing the Projects to production of Tender information (19665)
BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL
- UK Government Construction Playbook (link) - Joint Contracts Tribunal (JCT) Constructing Excellence Contracts Guide (link) For a full list of background papers relevant to the LUF/CRP programme please refer to the December 2024 Cabinet Report.

APPENDICES
Appendix 1: Options appraisal presentation

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