

Kirklees Cultural Heart – Design Monitoring During Phase 1 PCSA and Construction Period

Recommendation for Kirklees Council to employ a consultant design team to monitor the design and together with the SDP the delivery of the Cultural Heart Phase 1 project during the PCSA process and construction period.

Date: 16th March 2023

Background and Current Position

FCBS and ARUP were selected as design consultants for the Cultural Heart programme following a competitive tender process via the SBS/NHS Construction Consultancy Framework. FCBS and ARUP commenced RIBA Stages 0-2 in October 2021. These initial stages were completed in July 2022 and Cabinet approval was given to progress to RIBA Stage 3 (Spatial Coordination), which completed in February 2023. As part of the original competitive consultant tender process, FCBS and Arup submitted fee proposals for providing a monitoring role for the Cultural Heart Programme from RIBA Stage 4 onwards.

In late 2022 Kirklees Council took the decision to reconsider the delivery strategy. Indicative phasing proposals were prepared and approved in principle by ET/LMT in November 2022. Phase 1 of the revised delivery strategy was defined as the creation of a new Food Hall, within part of the former Queensgate Market; refurbishment and extension of the remaining market to create a new Library; demolition of the southwest corner of the Piazza shop units to create a new public events square; form an improved link to the University of Huddersfield.

Procurement for the Phase 1 main contractor commenced in January 2023 with the SQ being issued on 17th January, it was returned on 16th February 2023 and evaluated by Tuesday 28th February concluding in 3 contractors progressing to the ITT stage. The ITT pack was issued on 13th March, with returns due back 21st April 2023.

Next Steps to Gateway 3 (GW3)

Following completion of the ITT evaluation process in May 2023 a contractor will be proposed to be appointed under a Pre-Contract Services Agreement (PCSA), with the successful contractor being recommended for approval at the June 2023 Cabinet meeting (Gateway 3). From that point the contractor and their design team will take responsibility for development of the RIBA Stage 4 (Technical Design) and at the same time seek competitive costs in order to develop the proposed construction contract sum. Subject to satisfactory completion of RIBA Stage 4 and contract sum clarifications a recommendation to award the construction contract to the contractor and their team will be made to Cabinet in February 2024 (Gateway 4).

It should be noted at this stage it is anticipated that there will be repeats of Gateways 3 and 4 for each future phase of the development.

Due to the specialist nature of the project and to provide Kirklees Council with the assurance that the project is being developed in line with the design intent, as detailed within the RIBA Stage 3 Employers Requirements, it is recommended that Kirklees Council directly employs design consultants to act in a monitoring role. Initially this would be through RIBA Stage 4, prior to award of the construction contract and then through RIBA Stage 5 (Construction). This direct appointment will provide progressive and continuous assurance to Kirklees Council that the contractor's developing and delivered proposals align with the Employers Requirements that were established at completion

of RIBA Stage 3. In order to retain the embedded knowledge of FCBS and ARUP, gained through RIBA Stages 0-3, the preferred option would be to retain FCBS and ARUP as Kirklees Councils monitors through RIBA Stages 4 and 5. Based on the originally tender submission a prorated estimate of the monitoring fee for Phase 1 would be in the region of £1,600,000 for RIBA Stages 4 and 5.

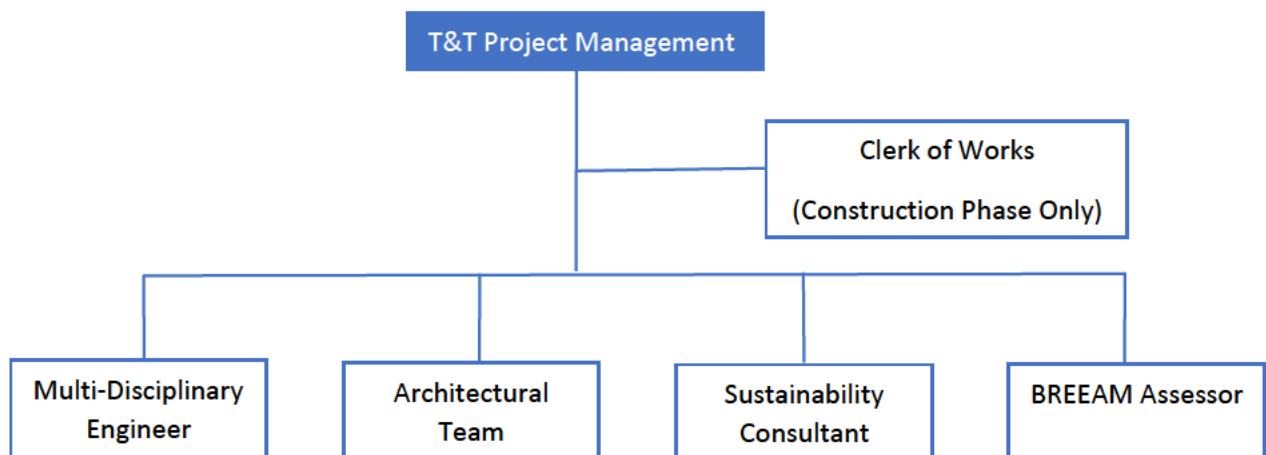
As part of the currently live ITT tender process any of the 3 tendering main contractor could approach FCBS and/or Arup and seek to employ them as their design consultants through RIBA Stages 4 and 5. If this occurs, then due to a conflict-of-interest FCBS and/or ARUP could not also work for Kirklees Council in a monitoring role. If this occurred then the project team need to have an alternative monitoring team ready to appoint from June 2023 (Gateway 3). To align with procurement regulations an alternative monitoring team would need to have been procured via a compliant tender process.

Proposed Structure for the Phase 1 Monitoring Team

Breaking down the roles required the following core disciplines will be required as Kirklees Council design monitors through RIBA Stages 4 & 5:

- **Architectural** – to review the contractors design proposals relative to RIBA Stages 4 and 5 including landscape design, access and heritage and conservation
- **Multi-Disciplinary Engineer** – to review the contractors design proposals relative to RIBA Stages 4 and 5 including civils, structures, services, fire safety, facades, acoustics, wind, security/counter terrorism measures and all other specialist elements
- **Sustainability Consultant** – to review and comment on all aspects of the contractors design and drive standards forward that were established and developed through RIBA Stages 0-3
- **BREEAM** – to lead the BREEAM assessment process on behalf of Kirklees Council, with the contractors BREEAM advisor feeding into the process throughout the projects remaining development and delivery.
- **Clerk of Works** – to review and inspect construction details through RIBA Stage 5

The structure for the proposed monitoring team is shown below:



Should this monitoring service need to be re-tendered , it is anticipated, due to the change in circumstances of the phased approach and recent shifts in the market, we anticipate that retendered costs could fall within the following ranges:

Architect including Sustainability and BREEAM	£450,000-£500,000
Multi-Disciplinary Engineer	£575,000-£625,000
Total	<u>£1,025,000-£1,125,000</u>

Following review of the above summary we requested that both FCBS and ARUP review their previously tendered monitoring costs and resubmit these based on their now embedded knowledge of the Phase 1 scheme. Costs have been resubmitted, reviewed and clarification sought regarding the costs submitted and assumptions noted. Subject to clarifications their proposed monitoring fees are within the ranges outlined above.

Proposed Procurement Route – If FCBS and ARUP are not appointed directly by Kirklees Council

In keeping with Kirklees Council procurement rules, the potential award of an alternative monitoring service contract would need to follow a mini competition process via a framework. The Invitation to Bid (ITB) would also need to set out Kirklees Council’s critical success factors, KPIs and social value expectations.

██████████ T&T Contract Services, in conjunction with the Kirklees Council Procurement team previously carried out an exercise to assess the pros and cons of available consultant frameworks. All available frameworks were reviewed in report, Framework Delivery Platforms.

The result of the review was a recommendation to use the SBS/NHS Construction Consultancy Framework. The reasoning for doing so included the following points:

- Fully addressed the scope of services required to be procured
- No direct fee to use. A 2% management charge is recovered directly from the consultants
- The ability to utilise a number of model contracts, enabling users to mix and match their requirements and tailor individual requirements
- EU compliant framework
- Kirklees Council has used this framework previously
- There are a diverse range of consultants on each Lot

The report was reviewed again during the writing of this paper and the recommendation to use the SBS-NHS framework is still valid. Furthermore, given the close alignment of the services required in the monitoring role with those for original design team, the SBS NHS Framework remains the optimum choice for this procurement exercise. The framework has also recently been extended to 31st July 2023 which will meet the Phase 1 programme requirements.

Potential Alternative Monitoring Team Procurement Timetable

The monitoring team would need to be in place prior to the commencement of the PCSA in June 2023. The new procurement process would be carried out within the timeline outlined below:

Activity	Milestone Date
Engage with SBS and draft Scope of Services	24 th March 2023
Issue ITB to Lot 1 and Lot 12 consultants	31 st March 2023
ITB return date	28 th April 2023
Complete evaluation of responses	19 th May 2023
Standstill ends	30 th May 2023
Appointment of Monitoring Team	30 th May 2023
Mobilisation period for Monitoring Team ends (familiarisation with project)	16 th June 2023
PCSA commences (forecast)	19 th June 2023

Recommendation

Subject to approval by Kirklees Council Procurement leads the recommendation is that the Council appoint FCBS and ARUP direct for the monitoring role in line with agreed fees, terms and conditions in order to retain their knowledge of the Phase 1 project. This would mean that if asked FCBS and ARUP would have to decline any request from the ITT contractors to work for them.

Monitoring fees for the whole programme were obtained as part of the original tender process, these fees have been recently revisited by both FCBS and ARUP, based on their embedded knowledge of Phase 1, and improved upon as part of this review. The improved fees from ARUP and FCBS are, subject to final clarifications, within the ranges outlined above if the service had been retendered.

If an exclusive agreement with FCBS and ARUP cannot be secured, then we would need to have an alternative provider ready to appoint in the role of Kirklees Councils design monitors from June 2023. The procurement exercise to appoint the alternative monitoring team would need to commence by 24th March 2023. A decision is therefore required from the Programme Board to either:

- Secure FCBS, ARUP, Etude and SCS as Kirklees Council design monitors for Phase 1
OR
- Commence a procurement exercise for the appointment of an alternative Phase 1 monitoring team.

The procurement exercise, if required, should be carried out via the SBS/NHS Construction Consultant Framework with a view to making the appointment(s) prior to the commencement of the PCSA in June 2023.