

Meeting of the

OVERVIEW & SCRUTINY COMMITTEE

Tuesday, 5 November 2013 at 7.00 p.m.

SUPPLEMENTAL AGENDA

VENUE

Room C1, 1st Floor, Town Hall, Mulberry Place, 5
Clove Crescent, London, E14 2BG

Members:	Deputies (if any):
<p>Chair: Councillor Motin Uz-Zaman Vice-Chair: Councillor Rachael Saunders, (Scrutiny Lead, Adults Health & Wellbeing)</p>	<p>Councillor Tim Archer, (Designated Deputy representing Councillor David Snowdon) Councillor Khales Uddin Ahmed, (Designated Deputy representing Councillors Motin Uz-Zaman, Rachael Saunders, Helal Uddin, Abdal Ullah and Amy Whitelock) Councillor Harun Miah, (Designated Deputy representing Councillor Fozol Miah) Councillor Peter Golds, (Designated Deputy representing Councillor David Snowdon) Councillor Helal Abbas, (Designated Deputy representing Councillors Motin Uz-Zaman, Rachael Saunders, Helal Uddin, Abdal Ullah and Amy Whitelock) Councillor Judith Gardiner, (Designated Deputy representing Councillors Motin Uz-Zaman, Rachael Saunders, Helal Uddin, Abdal Ullah and Amy Whitelock)</p>
<p>Councillor Stephanie Eaton, (Scrutiny Lead, Resources)</p>	
<p>Councillor Fozol Miah</p>	
<p>Councillor Amy Whitelock Gibbs, (Scrutiny Lead, Children, Schools & Families)</p>	
<p>Councillor Helal Uddin, (Scrutiny Lead, Communities, Localities & Culture)</p>	
<p>Councillor Abdal Ullah, (Scrutiny Lead, Development & Renewal)</p>	
<p>Councillor David Snowdon, (Scrutiny Lead, Chief Executive's)</p>	
<p>1 Vacancy</p>	
<p>[Note: The quorum for this body is 3 voting Members].</p>	

Co-opted Members:

Memory Kampiyawo	- (Parent Governor Representative)
Nozrul Mustafa	- (Parent Governor Representative)
Rev James Olanipekun	- (Parent Governor Representative)
Mr Mushfique Uddin	- (Muslim Community Representative)
Dr Phillip Rice	- (Church of England Diocese Representative)
1 Vacancy	- (Roman Catholic Diocese of Westminster Representative)

Committee Services Contact:

Angus Taylor, Democratic Services,

Tel: 020 7364 4333 E-mail: angus.taylor@towerhamlets.gov.uk

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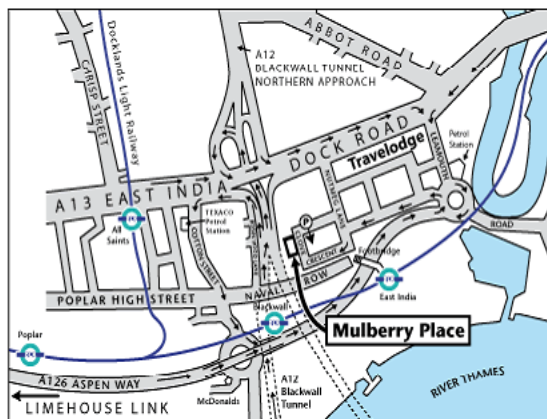
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LONDON BOROUGH OF TOWER HAMLETS
OVERVIEW & SCRUTINY COMMITTEE

Tuesday, 5 November 2013

7.00 p.m.

8 .1 Reference from Council - Watts Grove Depot Project (Pages 1 - 62)

Please find attached a corrected version of the agenda papers circulated previously.

Agenda Item 8.1

Committee: Overview and Scrutiny Committee	Date: 5 November 2013	Classification: Unrestricted	Report No:	Agenda Item:
Report of: Service Head, Democratic Services Originating officer(s) Matthew Mannion, Committee Services Manager		Title: Reference from Council – Watts Grove Depot Project Wards Affected: All Wards		

1. **SUMMARY**

- 1.1 At its meeting on 18 September 2013, Council passed a Motion expressing concern at the Mayor's decision on 29 July 2013 to scrap the Watts Grove Depot redevelopment project and also questioning the suitability of the financial mechanisms used to fund Dame Colet House and Poplar Baths.
- 1.2 Council referred the issues to the Overview and Scrutiny Committee and asked it to investigate in detail and to report back to Council on 27 November 2013.
- 1.3 The request was considered at the Overview and Scrutiny Committee meeting on 1 October and it was agreed that a full report on the issue would be prepared for consideration at the meeting to be held on 5 November 2013 and that report is therefore attached as an Appendix to this reference report.

2. **RECOMMENDATIONS**

The Overview and Scrutiny Committee is recommended to:-

- 2.1 Review the attached report on the issue and prepare a response for submission back to Council on 27 November 2013.

3. BACKGROUND

- 3.1 The Overview and Scrutiny Procedure Rules as set out in Part 4 of the Constitution entitles the Committee to consider work requests submitted by Council. Should the Overview and Scrutiny Committee decide to accept the request then it can submit a report containing their recommendations back to Council for them to consider at their next meeting. The relevant paragraph of the Overview and Scrutiny Procedure Rules is set out below for information.

9.2 The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and if it considers it appropriate the Mayor or Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Mayor/Executive and/or Council. The Executive shall consider the matter at one of its next two meetings following receipt of the report. If the matter is relevant to the Council only then will they consider the report at their next meeting.

4. BODY OF REPORT

- 4.1 At its meeting on 18 September 2013, Council passed the following motion in respect of the Watts Grove Depot redevelopment:

12.3 Motion regarding the Mayor's Decision to Scrap the Watts Grove Depot redevelopment

Councillor Carlo Gibbs **moved**, and Councillor Khales Uddin Ahmed **seconded**, the motion as printed on the agenda.

Following debate, the motion was put to the vote and was **agreed**.

DECISION

This Council notes:

- The Mayor's decision on the 29th July to scrap the Council's redevelopment of the Watts Grove Depot site.
- That this decision was taken in secret behind closed doors and without any opportunity for scrutiny from residents of councillors as would have been the case were it made at Cabinet two days later.
- Scrapping the development of Watts Grove will mean the 149 planned social homes will now not be built.
- In the report the Chief Finance Officer wrote that "*It is estimated that as a result of the project the net deficit in the HRA will increase by between £200k and £900k from 2015/16 onwards*" making the development unaffordable.
- The motion proposed by Cllrs Gibbs and Peck at this year's Budget which stated:

- *That between the Chancellor's Emergency Budget in 2010 and 2017/18, the Council's General Fund budget will have been cut by 50%;*
 - *The Council's Medium Term Financial Plan is showing a black hole of £39m in 2015/16, £24m of which is unfunded, and a deficit of at least £55m is anticipated in 2016/17;*
 - *In facing these cuts the residents of this borough deserve openness and honesty about how those elected to represent them will deal with this issue;*
 - *The Mayor has lost control of the Council's finances and has no proposals - such as an invest to save strategy, star chamber programme or review of service - to deal with this black hole;*
- There are over 20,000 people on the housing waiting list
 - The Mayor wrote in his decision that he would *"reconsider the decision to declare the Watts Grove Depot surplus to requirements" meaning the site would not be available for development.*
 - The Mayor wrote in the ELA on the 14th August that *"scheme has not been scrapped and it will be going ahead"*

This Council believes:

- That the Mayor was warned about the impact of his mismanagement of Council finances and did nothing.
- The cancellation of Watts Grove could have been avoided had the Mayor listened to Labour councillors and got a grip on the Council's finances.
- 20,000 residents on the housing waiting list have been thoroughly let down by the Mayor who has failed to deliver the much needed council housing he promised, and that it is residents who are paying the price for the Mayor's financial incompetence.
- The Chief Finance Officer's report raises serious concerns about the mechanism used by the Mayor to fund the redevelopments of Dame Colet House and Poplar Baths.
- By taking the decision in secret, behind closed doors, the Mayor further demonstrated his contempt for any kind of scrutiny of his actions and that this is a further insult to residents who are concerned about the housing shortages in the borough and whom he is supposed to represent.
- The Mayor's contradictory and inaccurate statements to the media are misleading and unacceptable.

This Council resolves:

- To instruct the Overview and Scrutiny Committee to investigate the reasons for the collapse of the Watts Grove Depot project, and the sustainability and suitability of the financial mechanisms used to fund Dame Colet House and

Poplar Baths and to report back to Council in November on its findings.

- To call upon the Mayor to come clean about the state of the Council's finances and to put in place a plan to balance the Council's books.
- To require the Section 151 officer to report to councillors within the week how much money including an estimate of officer time has been spent to date on the Watts Grove Project.

4.2 The Overview and Scrutiny Committee at its meeting on 1 October accepted this request and the attached report provides details about the issue to be examined.

5. COMMENTS OF THE CHIEF FINANCIAL OFFICER

5.1 All relevant financial matters are set out in the attached appendix report.

6. LEGAL COMMENTS

6.1 All relevant legal matters are set out in the attached appendix report.

7. ONE TOWER HAMLETS CONSIDERATIONS

7.1 Any relevant matters are set out in the attached report.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

8.1 Any relevant matters are set out in the attached report.

9. RISK MANAGEMENT IMPLICATIONS

9.1 Any relevant matters are set out in the attached report.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

10.1 Any relevant matters are set out in the attached report.

11. EFFICIENCY STATEMENT

11.1 Any relevant matters are set out in the attached report.

**Local Government Act, 1972 Section 100D (As amended)
List of "Background Papers" used in the preparation of this report**

Brief description of “background papers”

Name and telephone number of holder and address where open to inspection.

To be completed by author

To be completed by author ext. xxx

None

Matthew Mannion Ext 4651

12. APPENDICES

Appendix 1 – Finance response

Appendix 2 – Project review

Appendix 3 – Executive mayor decision

Appendix 4 – 4 July 2012 Unrestricted Cabinet report

Appendix 5 – Relevant 4 July 2012 Cabinet decisions

Appendix 6 – 9 January 2013 Unrestricted Cabinet report

Appendix 7 – Relevant 9 January 2013 Cabinet decisions

Appendix 8 – See Exempt/ Confidential Agenda

Appendix 9 – See Exempt/ Confidential Agenda

Appendix 10 – See Exempt/ Confidential Agenda

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Committee/Meeting: Overview and Scrutiny	Date: 5 th November 2013	Classification: Unrestricted	Report No:
Report of: Corporate Director's - Development and Renewal and; Resources Originating officer(s) Ann Sutcliffe Service Head Corporate Property and Capital Delivery		Title: Watts Grove Depot project and financial mechanisms for Poplar Baths Dame Colet. Wards Affected: Bromley By Bow; Blackwall & Cubitt Town; Limehouse; East India & Lansbury; St Dunstan's & Stepney Green	

Lead Member	Cllr Rabina Khan (Lead Member – Housing and Development) Cllr Choudhury (Lead Member – Resources)
Community Plan Theme	One Tower Hamlets
Strategic Priority	1.4 Provide effective local services and facilities

1. SUMMARY

1.1. The following report is in response to Overview and Scrutiny's request for the following:

1.2. Require the Section 151 officer to report to councillors within the week how much money including an estimate of officer time has been spent to date on the Watts Grove Project.

2. WATTS GROVE SPEND

2.1. The following table sets out spend to date on the Watts Grove project.

Resource	Description	Cost
Legal	External legal advice	£ 47,654
Procurement	External Procurement and Architectural Advisers	£ 88,251
Management	Project Management Technical Adviser	£ 76,199
Finance	Finance Technical Adviser	£ 20,000
Site investigations	Surveys and works	£ 31,950
Officers	Finance, Legal and Directorate officer time	£ 43,942
		£ 307,996

- 2.2. These costs have been obtained through a full analysis of the project, which has been undertaken alongside the Councils response to FOI 9063 response.
- 2.3. The project had an assigned project manager. The project manager was the named individual responsible for the day-to-day detailed management of the project and provided an interface between the Project Board and the supply side of the project team.
- 2.4. The project had an assign project director. The project director was the named individual responsible for oversight of the procurement process. This included instructing the advisory team and ensuring the project management team were achieving the required outcome and objectives of the project.
- 2.5. Deloitte, an external consultancy firm, were appointed as lead advisers. They provided additional technical support where required, and advised and assisted on the procurement process. This advice supplemented the existing knowledge within the authority and also provided an expanded resource to enable the effective development and implementation of this project. The appointment was undertaken through the Buying Solutions Framework. As the lead advisers Deloitte provided technical support in the following areas
 - Procurement
 - Planning
 - Evaluation
 - Commercial
 - Design
- 2.6. Bevan Brittan, an external legal firm, were appointed through LBTH Legal as external legal advisors. This appointment was made through an external tender process. All communication was made through LBTH legal services, with property questions being dealt with in house. Where required Counsel advise was sort by legal services to support the structure of the procurement.
- 2.7. In-kind officer costs were incurred through implementation of the project structure. This included development and renewal service heads, corporate directors and the legal services assistant chief executive. In addition to this a number of council officers were engaged as part of the scoping, reviewing and validation process for the project at each of the procurement milestones.

3. SPEND ANALYSIS

- 3.1. The information obtained in relation to the site and its capacity for a future development scheme has been filed onto the Council asset management systems. The design and site condition information will provide the foundation for any further development proposals.
- 3.2. The information would not be limited to housing developments this would inform any depot consolidation plans or other regeneration potentials identified for the site in the future.

Committee/Meeting: Overview and Scrutiny	Date: 5 th November 2013	Classification: Unrestricted	Report No:
Report of: Corporate Director's - Development and Renewal and; Resources Originating officer(s) Ann Sutcliffe Service Head Corporate Property and Capital Delivery		Title: Watts Grove Depot project and financial mechanisms for Poplar Baths Dame Colet. Wards Affected: Bromley By Bow; Blackwall & Cubitt Town; Limehouse; East India & Lansbury; St Dunstan's & Stepney Green	

Lead Member	Cllr Rabina Khan (Lead Member – Housing and Development) Cllr Choudhury (Lead Member – Resources)
Community Plan Theme	One Tower Hamlets
Strategic Priority	1.4 Provide effective local services and facilities

1. **SUMMARY**

1.1 On the 18th September 2013 full council resolved to:

1.1.1 Instruct the Overview and Scrutiny Committee to investigate the reasons for the collapse of the Watts Grove Depot project, and the sustainability and suitability of the financial mechanisms used to fund Dame Colet House and Poplar Baths and to report back to Council in November on its findings.

1.1.2 Call upon the Mayor to come clean about the state of the Council's finances and to put in place a plan to balance the Council's books.

1.1.3 Require the Section 151 officer to report to councillors within the week how much money including an estimate of officer time has been spent to date on the Watts Grove Project.

1.2 This report provides committee members with a review of the Watts Grove and Poplar Baths Dame Colet projects in relation to item 1.1.1 above, a separate report will be generated in response to 1.1.3.

2 WATTS GROVE PROJECT REVIEW

- 2.1 The main principle being sort by officers for the Watts Grove project was to deliver the Mayoral priority around the realisation of additional affordable housing within the Borough.
- 2.2 The procurement was structured to allow open dialogue with private sector partners, allowing the project to deliver a design proposal which met the Council's housing needs, whilst aiming to be a cost effective delivery mechanism for additional new homes.
- 2.3 The release of the Watt's Grove site was based upon the principle of restructuring and investing in the reconfiguration of council depots. This rationalisation was targeting the release of valuable sites and will result in future schemes being financed on an invest to save basis arising from a reduction in depot running costs.
- 2.4 LBTH issued an OJEU Contract Notice (2012/S 44-071852) on 3rd March 2012 via the London Tenders Portal. The expressions of interest stage closed on 3rd April 2012. The Council proceeded to the next stage of the procurement process and issued a Pre-Qualification Questionnaire (PQQ) in relation to the Official Journal of the European Union (OJEU) Contract "DR 4186 – Watts Grove – Affordable Housing Development". A total of 16 compliant PQQ submissions were received by the deadline of 4th May 2012. The professional team recommended allowing 11 parties to proceed to the Outline Solutions stage of the Competitive Dialogue Development Partner Procurement Process which began 22nd June 2012.
- 2.5 On Conclusion of the Outline Solutions stage 6 complaint tenders were received from Bidders. A detailed evaluation of the base and variant bids was undertaken by Council officers. After careful consideration it was concluded that, in the light of the submissions, it would be preferable to invite all the parties to resubmit their outline solutions on the understanding that the Council wished to consider the base bid; a Lease – Lease Back model only. However, the lease length being offered would be extended from 25 to 35 years to enhance project viability.
- 2.6 The structure of lease – lease back was one which had been adopted by the Council for Poplar Baths Dame Colet. The lease length of 35 years for this project was aligned to that now provided for Watts Grove.
- 2.7 The alignment of the lease – lease back scheme would also allow the use of standardised Council requirements, specifications and legal documentation between the two projects.
- 2.8 On the 28th September 2012 the original parties were invited to participate in this additional Outline Solution stage to deliver 149 affordable housing units. The units were proposed to be managed by Tower Hamlets Homes (THH) who will be responsible for internal repairs.


- 2.9 Six consortia confirmed they would like to rebid, with invitations to resubmit being issued for Outline Solutions on the 26 October 2012. Five outline solutions were received following the withdrawal of one bidder during this process.
- 2.10 A detailed evaluation of the Outline Solutions was undertaken by Council officers. Four compliant bidders were recommended to be taken forward into the final stage of competitive dialogue. The Council issued bidders with the ITPCD – Detailed Solutions on the 14th December 2012.
- 2.11 In line with procurement processes the consortia participated in the Competitive Dialogue procurement process by attending technical, financial and legal meetings. The Design & Technical meetings comprised bidders presenting their designs as they evolved with the client and professional team providing feedback on these designs. Legal and financial dialogue involved discussion around the Council's proposed structure and legal agreement to ensure bidders were able to bring forward a sound financial bid.
- 2.12 During dialogue one bidder withdrew. The three remaining bidders were issued with invitations to submit final tenders on the 8th March 2013, with three compliant tenders received on the 22nd March 2013.
- 2.13 The final tenders comprised design submissions for the proposed schemes as well as financial offers and derogations against the proposed legal documents.
- 2.14 Following receipt of submissions, the professional team reviewed the tenders and provided the evaluation panel with an indication of the recommended score (fail, low, acceptable, good and exemplar) for each section (commercial proposition, planning strategy, quality, mix of uses, local issues and management) of the technical evaluation. The evaluation panel then scored the submissions, this scoring has been utilised to produce a final technical score for each bid.
- 2.15 In accordance with the evaluation criteria set out in the invitation to submit final tenders the financial element for the scheme being worth 60% of the overall marks with the technical element for the scheme was worth 40% of the overall marks. The financial and technical scores were then added together to give an overall score. This resulted in a preferred bidder being recommended.
- 2.16 The evaluation panel comprised both senior council officers and external technical and legal advisors. This evaluation process was then endorsed by the Project Board.
- 2.17 Officers produced an individual mayoral decision notice proforma (decision log no. 31). This gave an update on the procurement process; it also set out the cost impacts for the project and gave a recommendation for appointment of a preferred bidder.

- 2.18 The Executive Mayor rejected council officer's recommendations on the 17th July 2013 for reasons attached in his decision as attached as Appendix 3. As a result of this the Council has informed the three consortiums that the project is not going to proceed.

3 POPLAR BATHS DAME COLET

- 3.1 The procurement of this project has progressed in advance of the Watts Grove project. The structure of the procurement is different in that it incorporates three defined objectives; Design build and operation of renewed Poplar Baths Leisure facilities; New build youth centre and; 100 new build social rented housing units.
- 3.2 The provision of the housing units was structured as a lease – lease back project. This is aligned with the Watts Grove model whereby the Council would take an internal repairing lease of the units to allow Tower Hamlets Homes to manage on a 100% socially rented basis.
- 3.3 The provision of the leisure aspect of this contract is different in that the Council has structured it to be designed, built and operationally managed by the developer. This structure allows for the council to set and monitor its key objectives for delivery by the private sector.
- 3.4 The new youth centre at Haileybury will be provided to the council under a lease – lease back structure. This lease will be based on a shell and core basis with the council's youth service providers fitting out the loose furniture and equipment to align with their service delivery requirements.
- 3.5 On the 6th July 2011 Cabinet resolved that officers should develop a proposal for Poplar Baths and Dame Colet House for procurement and implementation.
- 3.6 On the 4th July 2012 officers reported back to Cabinet detailing the procurement process which had been initiated. It was resolved that officer's should proceed with their recommended shortlist of two bidders through final dialogue and to invite submission of final tenders.
- 3.7 Final tenders were received by the Council allowing officer's to report their recommendation for a preferred bidder to Cabinet on the 9th January 2013. This cabinet resolved to adopt a capital estimate for the project, allow officers to appoint their preferred bidder and to further allow officer to enter into final contracts for project delivery following consultation with the Executive Mayor and the Lead Member for Resources.
- 3.8 On the 9th October 2013 Tower Hamlet's development committee resolved to approve the planning applications as recommended by planning officers. As a result of this approval Council officers are working with its appointed developer to reach a satisfactory financial close position which will allow works to start on site.

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Individual Mayoral Decision Proforma Decision Log No: 31	 TOWER HAMLETS
Report of: Corporate Director Development & Renewal	Classification: Unrestricted/restricted
Watts Grove Depot – tender process update and selection of preferred bidder	

Is this a Key Decision?	Yes
Decision Notice Publication Date:	25 January 2013
General Exception or Urgency Notice published?	Not required
Restrictions:	Unrestricted/restricted

1. EXECUTIVE SUMMARY

- 1.1 This report deals with the selection of the preferred bidder for the Watts Grove Project and the delegated authority to conclude Contract negotiations and enter into contract with the preferred bidder.
- 1.2 This report provides the Executive Mayor with an update on the procurement process for the regeneration of Watt's Grove Depot from its current use as a transport depot to create new socially rented housing.

2. DECISION

The Executive Mayor is recommended to:-


- 2.1 Agree to the recommendation of the procurement evaluation panel to approve Bidder A as the preferred bidder;
- 2.2 Authorise officers to proceed with the final stage of procurement in finalising agreements with a preferred bidder;
- 2.3 Confirm the second placed unsuccessful bidder Bidder C as a reserve and to authorise the Director of Development and Renewal, following discussion with the Executive Mayor to call upon this reserve if the preferred bidder's position changes from that tendered.
- 2.4 Following consultation with the Executive Mayor and the Lead Member for Resources, authorise the Director of Development and Renewal and the Assistant Chief Executive

- 2.5 Adopt a capital estimate to the value of £23million for the development of the Watts Grove Depot site, noting that provision of £22 million to fund the indicative scheme was included within the capital programme considered at the Council Budget meeting on 7 March 2013. The increased capital provision is required in order to make provision for the eventuality of the reserve bidder being required;
- 2.6 Confirm that funding requirements as outlined in the Part 2 report will be available to meet the potential revenue contract costs subject completion of the contract;
- 2.7 Confirm the allocated expenditure for procurement costs of £425k on the basis that these costs will be reimbursed by the successful developer upon the Development Agreement becoming unconditional and Financial Close being reached, if necessary this will need to be paid for by reserves if the development does not proceed;
- 2.8 Authorise officers to proceed with concurrent development of three options, as outlined in the Part 2 report to facilitate vacant possession being granted prior to works beginning in accordance with the programme.
- 2.9 Adopt a capital estimate capped at £1m for decant works as set out in the part 2 report for the relocation of Watts Grove Depot, to be funded from resources set aside for the development of affordable housing schemes.
- 2.10 Authorise the disposal on a 35 year lease of the land at Watts Grove Depot in line with the tender to the Preferred Bidder under the General Disposal Consent 2003 to facilitate the development and improve the economic social and environmental well being of the area in accordance with the Objective 1 "Providing quality affordable housing " of the first theme of the Council's Community Plan "A Great Place to Live"
- 2.11 Agree that the Council will sublease the 149 units of accommodation and associated land on a 35 year (less 1 day) lease under section 17 Housing Act 1985 for Housing Purposes as the use of the land will then be for social housing and will be held under the Housing Revenue Account. The effect of this is detailed in paragraph 7.23 of the attached report which sets out details of the Tender and contract structure
- 2.12 Agree to authorise expenditure of £50,000 to undertake the works outlined at paragraphs 6.14 to 6.17 of the Part 2 report to be funded from reserves

APPROVALS

1. Corporate Director proposing the decision or his/her deputy

I approve the attached report and proposed decision above for submission to the Mayor.


Signed  Date 17/6/2013

2. Corporate Director proposing the decision or his/her deputy

I approve the attached report and proposed decision above for submission to the Mayor.

3. Chief Finance Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 17/7/13

4. Monitoring Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

(For Key Decision only)

I confirm that this decision:-

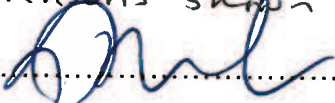
- (a) has been published in advance on the Council's Forward Plan OR
- (b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.

Signed  Date 17/7/13

5. Mayor

~~I agree the decisions proposed in paragraph 2 above for the reasons set out in the attached Part 1 report.~~

For reasons shown overleaf, I reject the recommendation

Signed  Date 17/7/13

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Watts Grove – Mayoral Decision


Having considered the detailed Report on the outcome of the evaluation of final tenders for Watts Grove and the implications for the Council, I have decided not to proceed with the award of a contract for the Watts Grove Depot.

This has not been an easy decision to reach as I had hoped to create further social housing units in the borough by this contract, but I have to carefully weigh up the Council's financial position over the next few years in the light of the most severe spending cuts we have ever endured.

Earlier in the competitive tender process, an assessment of the projected costs as detailed by the bidders was carried out and the scheme was, at that stage, deemed affordable. Unfortunately the final tender submissions greatly exceed those projected costs with serious financial consequences to the Council's HRA and overall debt cap.

I have considered fully the outcome of the final tender evaluation and the financial implications for the Council and taken into account the comments of the Chief Finance Officer in the report at paragraphs 7.6, 7.7 and 7.8. These show that the cost impacts on the Housing Revenue Account debt cap are greater than had been originally anticipated. These make the scheme no longer affordable within the HRA without cutting costs in the 30 year business plan and therefore in front line services

In addition, I am now advised that the detailed consideration of the 2 potential sites for a consolidated depot, whereby the Watts Grove Depot together with other depots could be re-provided, is no longer affordable given current proposed savings required in public spending within the general account. I am therefore going to reconsider the decision to declare the Watts Grove Depot surplus to requirements.



17/7/13

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Report of: Corporate Director Development and Renewal Originating officer(s) Ann Sutcliffe Service Head Corporate Property and Capital Delivery	Title: Watts Grove Depot – tender process update and selection of preferred bidder Wards Affected: Bromley By Bow
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Lead Member	Cllr Rabina Khan (Lead Member – Housing and Development) Cllr Choudhury (Lead Member – Resources)
Community Plan Theme	One Tower Hamlets
Strategic Priority	1.4 Provide effective local services and facilities

1. **SUMMARY**

- 1.1 This report deals with the selection of the preferred bidder for the Watts Grove Project and the delegated authority to conclude Contract negotiations and enter into contract with the preferred bidder.
- 1.2 This report provides the Executive Mayor with an update on the procurement process for the regeneration of Watt’s Grove Depot from its current use as a transport depot to create new socially rented housing.

2. **DECISIONS REQUIRED**

- 2.1 **The Executive Mayor is recommended to agree the Recommendations in the cover report**

3. **REASONS FOR THE DECISIONS**

- 3.1 London Borough of Tower Hamlets strategy for the restructuring of the Councils depots has identified Watt’s Grove Depot as surplus to requirements. This surplus will be utilised to deliver the Mayoral priority for the realisation of additional affordable housing units within the borough.
- 3.2 To facilitate this, the Executive Mayor has previously agreed to decant the existing services being delivered on the Depot by Veolia. An options appraisal into alternative sites is being finalised as part of the council’s current depot strategy review. This review will report back to Cabinet in July.
- 3.3 An EU compliant competitive dialogue procurement process has been run by Development and Renewal officers. Under corporate directors actions

approval the procurement process has been facilitated through utilisation of planning delivery reserves.

- 3.4 This report provides feedback on the invitation to submit final tender submission, and the recommendation to proceed to conclusion of the tendering process and appoint a preferred bidder as set out in the original OJEU notice.

4. ALTERNATIVE OPTIONS

- 4.1 There are no alternate options for the delivery of this housing scheme as it is site specific, the Council will retain the operation and management of the housing site and it will be operated under the arrangements with Tower Hamlet Homes, as such the procurement was based on this and the other main objective, the provision of much needed affordable rented homes. The only alternative is to do no building on this site.

5. BACKGROUND

- 5.1 Officers have been working to deliver the Mayoral priority around the realisation of additional affordable housing within the Borough. This development is within the first phase of the wider programme. Watts Grove has moved to the final bid stage of the procurement and through working with private sector partners, the project aims to deliver the provision of additional new affordable homes at Affordable POD Rents as there is no grant funding.
- 5.2 The release of the Watt's Grove site is achieved through restructuring and investment in reconfiguring the depots. This rationalisation will free up valuable sites and will result in future schemes being financed on an invest to save basis arising from a reduction in depot running costs
- 5.3 The HRA capital programme approved by full council on the 7th March 2013 included a capital provision of £22m for the Watts Grove project. The Capital estimate will need to be increased to £23 million for this project.

6. Main Body of the Report

Process to date

- 6.1 LBTH issued an OJEU Contract Notice (2012/S 44-071852) on 3rd March 2012 via the London Tenders Portal. The expressions of interest stage closed on 3rd April 2012. The Council proceeded to the next stage of the procurement process and issued a Pre-Qualification Questionnaire (PQQ) in relation to the Official Journal of the European Union (OJEU) Contract "DR 4186 – Watts Grove – Affordable Housing Development". A total of 16 compliant PQQ submissions were received by the deadline of 4th May 2012. The professional team recommended allowing 11 parties to proceed to the

Outline Solutions stage of the Competitive Dialogue Development Partner Procurement Process which began 22nd June 2012.

- 6.2 On Conclusion of the Outline Solutions stage 6 complaint tenders were received from Bidders. A detailed evaluation of the base and variant bids was undertaken by Council Officers and independent advisers. After careful consideration it was concluded that, in the light of the submissions, it would be preferable to invite all the parties to resubmit their outline solutions on the understanding that the council wished to consider the base bid; a Lease – Lease Back model only, however the lease length being offered would be extended from 25 to 35 years to enhance project viability which was in line with the OJEU advert and tender documents.
- 6.3 On the 28th September 2012 the original parties were invited to participate in a further Outline Solution stage based on the lease and leaseback structure to deliver 149 affordable housing units. The units will be managed by Tower Hamlets Homes (THH) who will be responsible for internal repairs.
- 6.4 Six consortia confirmed they would like to rebid, with invitations to resubmit being issued for Outline Solutions on the 26 October 2012. Five outline solutions were received following the withdrawal of one bidder during this process.
- 6.5 A detailed evaluation of the Outline Solutions was undertaken by Council officers and independent advisers. Four compliant bidders were recommended to be taken forwarded into the final stage of competitive dialogue. The Council issued bidders with the ITPCD – Detailed Solutions on the 14th December 2012.
- 6.6 In line with procurement processes the consortia participated in the Competitive Dialogue procurement process by attending technical, financial and legal meetings. The Design & Technical meetings comprised bidders presenting their designs as they evolved with the client and professional team providing feedback on these designs. Legal and financial dialogue involved discussion around the Council's proposed structure and legal agreement to ensure bidders were able to bring forward a sound financial bid.
- 6.7 During dialogue one bidder withdrew. The three remaining bidders were issued with invitations to submit final tenders on the 8th March 2013, with three compliant tenders received on the 22nd March 2013.
- 6.8 The final tenders comprised design submissions for the proposed schemes as well as financial offers and derogations against the proposed legal documents.
- 6.9 Following receipt of submissions, the professional team reviewed the tenders and provided the evaluation panel with an indication of the recommended score (fail, low, acceptable, good and exemplar) for each section (commercial proposition, planning strategy, quality, mix of uses, local

issues and management) of the technical evaluation. The evaluation panel then scored the submissions, this scoring has been utilised to produce a final technical score for each bid.

Scoring

- 6.10 In accordance with the evaluation criteria set out in the invitation to submit final tenders the financial element for each scheme and each site being worth 60% of the overall marks with the technical element for each scheme and each site was worth 40% of the overall marks. The financial and technical scores were then added together to give an overall score. This has resulted in the recommended preferred bidder as set out in part 2 of this report.
- 6.11 The scoring results are set out in part 2 of this report.

Evaluation

- 6.12 The evaluation panel comprised both senior council officers and external technical and legal advisors.
- 6.13 Following this evaluation process, which was endorsed by the Project Board, it is recommended to proceed with the Bidder A – the highest scoring bidder as identified in the part 2 report.

Programme

- 6.14 Upon receipt of Cabinet approval officers will proceed with finalising contract documents to allow the Council to enter into a Development Agreement with the preferred bidder. Following this detailed design and planning applications will be made. The table below outlines the proposed programme for these works; this has been approved by the selected bidder and will be monitored by the procurement team.

Activity	Date
Selection of successful bidder	June 2013
Alcatel period	10 clear days after selection notified to bidders
Final clarifications	End July
Contract close	August
Preparation and submission of planning permission	October
Planning Committee	January 2014

JR period	April 2014
Financial Close	end April 2014

Council procurement costs

- 6.15 To allow the procurement of Watt's Grove to commence a provision of £180k has been agreed under the Corporate Directors approval. Officers have forecasted the cost of procurement up to the signing of a Development Agreement to be £325k.
- 6.16 A further £100k is required to facilitate the relocation of a mobile phone mast on the site. The total costs of £425k will be reimbursed by the successful Tenderer as part of the scheme at Financial Close, as they are incorporated into the financial repayment model. If Financial close is not achieved these costs will have to be met by the Council from reserves. A detailed explanation of the financial implications of the scheme is set out in the comments of the Chief Financial Officer.

Depot Enabling Works Options

- 6.17 In January 2012 asset management board agreed that as part of the Council's depot review the Watts Grove site had been identified as a surplus asset.
- 6.18 In February 2013 officers presented to cabinet report CAB81/123 - Asset Efficiency Review (Depots and Town Hall). The report asked Cabinet to note the initial appraisal and agree to progress a detailed viability assessment on whether the Council should consolidate its Depot portfolio to release valuable land for re-use for Housing and other purposes.
- 6.19 Cabinet authorised officers to enter into preliminary negotiations and bring forward plans for the disposal of a number of sites.
- 6.20 To facilitate this and align with the council obligation to provide vacant possession of Watts Grove to the preferred bidder officers will be required to progress the concurrent design of three options as identified in the part 2 report. The completed options appraisal will identify the recommended decant location for the existing services and will align this with the overall depot strategy review.

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 This report updates Cabinet on the progress of the Watts Grove redevelopment project and asks the Mayor in Cabinet to consider the recommendations of the procurement evaluation panel and approve a developer consortium to deliver the scheme.

- 7.2 To protect the Council's financial and commercial interests key aspects of the Chief Financial Officer's comments are set out in a separate report on Part II of the agenda.
- 7.3 The base scheme on which bidders have now submitted their final bids, has assumed key standard specifications, including the number of housing units to be provided, and that the whole development operate via a finance lease back of 35 years to the Council. A detailed financial appraisal has now been undertaken of each of the bids, together with a comprehensive financial review of each of the companies which make up the Special Purpose Vehicle (SPV). The SPV will develop the properties and lease them back to the authority over a 35 year period. The SPV is responsible for the external maintenance of Watts Grove but the new dwellings will be managed and internally maintained by Tower Hamlets Homes (THH). Under the Development Agreement, the annual lease payment becomes payable once the development period has ended.
- 7.4 The project will be financed through a finance lease. A finance lease is defined as an agreement where risks and rewards of ownership are substantially transferred to the lessee. The lease term is for the major part of the economic life of the asset and ownership of the asset transfers to the lessee at the end of the lease period. It is therefore clear, that as ownership of the asset transfers to the lessee at the end of the lease period, these leases can only be classified as a finance leases.
- 7.5 In accordance with accounting standard IAS 17 and the Prudential Code for Capital Finance in Local Authorities if the lease is classified as finance lease the assets and the liabilities have to be recognised in the Authority's balance sheet. The recognition of property plant & equipment will be matched by long term liabilities defined as credit arrangements. These credit arrangements will count in the calculation of the capital financing requirement. In March 2013 full Council approved indicative capital resources of £22 million as part of the HRA capital programme to facilitate this project. This report requests that a formal capital estimate of £23 million is now adopted to account for final tenders received.
- 7.6 The affordable rents receivable on the housing development, over the period of the HRA business plan, will not be sufficient to repay the capital financing, management and maintenance costs. It is estimated that as a result of the project the net deficit in the HRA will increase by between £200k and £900k from 2015/16 onwards,
- 7.7 Furthermore because this is a finance lease and deemed to be notional borrowing the housing developments will count against the Council's authorised debt cap under the HRA self-financing regulations. The HRA borrowing headroom will reduce by £22m - £25m in 2015/16, depending upon which bid is approved. This will mean that the Council will reach its debt cap earlier than currently predicted in the 30 year business plan. To compensate for the loss of capital resources additional resources of between £600k and £800k per annum will need to be identified to supplement HRA

reserves to deliver the long term capital investment needs of the existing housing stock.

- 7.8 In total, therefore, full year revenue savings of between £0.8m and £1.7m per annum are required from 2015/16 to deliver a balanced HRA business plan. This compares to an original estimate of £0.45m. Savings have been factored into the HRA Medium Term Financial Plan to offset these costs but these will be difficult to achieve. These savings will be factored into the medium term financial plan but being in addition to the savings already required for the Poplar Baths and Dame Colet House development agreement could seriously impact on the level of services provided in the HRA.
- 7.9 The scheme could generate additional New Homes Bonus of £0.225m per annum over the six year period following its completion. Assuming no change to Government policy with regards to its allocations this could be applied to partially offset the net cost of the scheme.
- 7.10 As outlined in the Risk Management Implications (paragraph 11.2), tenants will potentially maintain the right to buy the new rented properties. The Authority will be able to fully utilise any capital receipt but will receive reduced rental income while still being liable to make the full lease payment to the Special Purpose Vehicle over the period of the lease.
- 7.11 The Watts Grove site is currently being used as a depot and as such is accounted for in the General Fund. The change of use will mean that the land will have to be appropriated to the HRA. The financial implications of this appropriation are set out in the Part 2 report.
- 7.12 The report identifies that the costs of procurement and the cost of removing the telephone mast will be reimbursed by the successful bidder at the financial close. There is a risk that if financial close is not achieved these costs will have to be met from reserves.
- 7.13 The cost of the lease and lease-back method of financing the project will not be finalised until financial close is achieved. Any delays in vacating the site or obtaining planning permission could significantly increase the overall costs of the project. Unlike long term borrowing rates which are at a record low, interest rates in lease back schemes are much higher because of the risks associated with the project. If the risk element increases so do the costs.
- 7.14 The report seeks the adoption of a capital estimate of £1,000,000 to finance the decant costs of the Watts Grove site. Funding for this will be met from within resources previously set aside by Cabinet to finance the provision of affordable housing.

**8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE
(LEGAL SERVICES)**

- 8.1 This report is seeking approval from Cabinet for a number of matters, some of the detail of these matters is contained in the Part 2 report but for ease of reference all of the legal advice is contained in this report.
- 8.2 Firstly it seeks approval to appoint a preferred bidder and a reserve bidder and once the contracts terms are finalised to award the development contract and 35 year lease to the successful bidder. A 35 year lease is a disposal and is subject to the provisions of Section 123 of the Local Government Act 1972. The Council is required to get the best consideration reasonably obtainable unless the Secretary of State consents to the disposal. A lease of more than 7 years is defined as a disposal.
- 8.3 The disposal consent for this transaction is the general disposal consent 2003 which permits the Council to dispose of land up to a value of £2 million in any one year . The disposal is a 35 year lease of vacant land at a peppercorn rent. The Council then acquire the lease back of 149 units of accommodation under Section 17 of the Housing Act 1985 for housing purposes and the interest in the land will then fall into the Housing revenue Account (HRA) and payments made under the lease will be made from that account not the general fund. The units will be managed under the existing management contract the Council has with Tower Hamlet Homes Ltd
- 8.4 As this scheme requires the development of the land to produce the units of accommodation it has been procured using the Competitive Dialogue procedure in accordance with the Public Contracts Regulation 2006. This procedure is used in the case of particularly complex contracts where contracting authorities consider that the use of the open or restricted procedure will not allow the award of the contract.
- 8.5 The procurement has followed the procedures laid down by the regulations which are described in detail in the report.
- 8.6 The proposals for the relocation of the existing Watts Grove Depot are set out in detail in the part 2 report and in making any decision on the award of the contract, the Executive Mayor needs to take this into consideration.
- 8.7 The Executive Mayor is asked to agree adoption of capital estimates for the capital expenditure and members have advice in paragraph 7 of the report from the chief finance officer on the implications of this
- 8.8. The Executive Mayor has to satisfy himself that the proposed deal represents best consideration for the disposal of the land for the 35 year lease and best consideration for the development contract given the annual sums which are payable under that.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 This project provides 149 much need affordable rented units within the Borough. An EIA has been undertaken and is attached to this report.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 The schemes will comply with the Council's requirements on the reduction of carbon emissions, energy consumption along with green and sustainable construction delivery.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 The main risks that exist for the project are as follows:

A. The project over-runs its programme, incurring additional costs for the Authority, including bid costs

B. A lack of resources to maintain the programme

The above will be managed through strong project governance arrangements on the project, building on good practice on complex commercial negotiations undertaken by the borough over recent years.

- 11.2 Recent legal advice indicates that although the Authority is leasing the dwellings for the thirty-five year period, there is potential that tenants moving into the properties will maintain their ability to exercise the right to buy on these dwellings. The Authority will therefore continue to be liable for the lease rental payments to the Special Purpose Vehicle, but will no longer generate rental income. The capital receipts generated will be fully usable by the Authority, with resources recycled into the scheme.

- 11.3 There are a number of risks associated with the final tender recommendations and watts Grove decant; these are detailed in the part 2 report.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 The project will provide homes that are of a better design in terms of orientation to maximise passive supervision of common and external areas, with safe pedestrian routes to and from the homes.

13. EFFICIENCY STATEMENT

Provision of additional new homes will contribute to the Councils Overcrowding Strategy, through rehousing those tenants most in need. The homes will be built to sustainable design standards, therefore reducing the financial impact for residents and users. The procurement process will identify the most efficient means of delivering this key Mayoral priority.

**Local Government Act, 1972 Section 100D (As amended)
List of "Background Papers" used in the preparation of this report**

Brief description of "background papers"	Name and telephone number of holder and address where open to inspection.
Cabinet Report Feb 2013 - CAB81/123	
Cabinet Report Sept 2012 – CAB029/123	Ann Sutcliffe Service Head, Corporate Property & Capital Delivery

Committee/Meeting: Cabinet	Date: 4 th July 2012	Classification: Unrestricted	Report No:
Report of: Corporate Director Community, Localities and Culture and Corporate Director Development and Renewal Originating officer(s) Ann Sutcliffe Service Head Corporate Property and Capital Delivery		Title: Poplar Baths and Dame Colet House – tender process update Wards Affected: Blackwall & Cubitt Town Limehouse East India & Lansbury St Dunstan's & Stepney Green TBC	

Lead Member	Cllr Rabina Khan (Lead Member – regeneration and Housing) Cllr Choudhury [Lead Member – Resources]
Community Plan Theme	Building one Tower Hamlets
Strategic Priority	1.4 Provide effective local services and facilities

1. **SUMMARY**

- 1.1 This report provides Members with an update on the procurement process for the refurbishment of Poplar Baths, provision of new homes and a new Haileybury Youth Centre.

2. **DECISIONS REQUIRED**

Council is recommended to:-

- 2.1 Note the progress made on the procurement process;
- 2.2 Authorise officers to proceed the competitive dialogue to final tenders with bidders 2 and 3 and with the variant bids as set out in the exempt report;
- 2.3 Instruct officers to bring back to Cabinet the final report recommending the final bidder and contract sum prior to contract award; and;
- 2.4 Confirm that funding will be available to meet the potential contract costs subject always to satisfactory tenders and final sum, and the project is incorporated in the capital programme and appropriate capital estimate adopted.

3. REASONS FOR THE DECISIONS

3.1 Cabinet agreed on 6th July 2011 that officers should develop a proposal for Poplar Baths and Dame Colet House for procurement and implementation. The decision was made to achieve the following:

- Refurbished and remodelled Poplar Baths
- Provision of a minimum of a 100 additional new build homes adjacent to Poplar Baths and on the Dame Colet House sites
- Provision of a new build youth facility on the Haileybury Centre site

3.2 Officers have issued the OJEU notice, which achieved a long list and Invitation to Participate in Competitive Dialogue (ITPCD). This reports provide feedback on the ITPCD submission, and the recommendation to proceed into the next stage of dialogue with the final 2 shortlisted bidders as set out in the original OJEU notice.

4. ALTERNATIVE OPTIONS

4.1 There are no alternate options around delivery other than to relinquish the sites. This option would not achieve the objectives as set out to provide much needed leisure facilities, affordable rented homes and a new youth facility.

5. BACKGROUND

5.1 The Cabinet agreed on the 6th July 2011 that the Poplar Baths Project should proceed to procurement, working with private sector partners to delivery the most cost effective option for the Council for the provision of refurbished/remodelled baths, additional home and anew build youth centre.

6.0 Main Body of the Report

Process to date

6.1 LBTH issued an OJEU Contract Notice (2011/S 194-316050) on 8th October 2011 via the London Tenders Portal. The expressions of interest stage closed on 9th November 2011 and a total of 68 parties had responded. The response was so great that the Borough decided to proceed to the next stage of the procurement process and issued a Pre-Qualification Questionnaire (PQQ) in relation to the Official Journal of the European Union (OJEU) Contract "UK-London: Poplar Baths and Dame Colet Project in Tower Hamlets". A total of 6 compliant PQQ submissions were received by the deadline of 1st February 2012 and the Project Board accepted the professional team's recommendation to allow all 6 parties to proceed to the Outline Solutions stage of the Competitive Dialogue Development Partner Procurement Process which began 28th March 2012.

6.2 The 6 parties were as follows:

Bouygues UK consortium

Galliford Try Partnerships

Grosvenor House Group consortium

Guildmore Ltd

Morgan Sindall Investments consortium

Wilmott Dixon Capital Works consortium

- 6.3 Three bidders, the Grosvenor House Group consortium, the Wilmott Dixon consortium and the Galliford Try Partnership all withdrew from the process within the first 2 weeks citing a number of different reasons.
- 6.4 The remaining consortia continued to participate in the Competitive Dialogue procurement process by attending Design & Technical and Legal and Financial meetings between 17th April and 14th May. The Design & Technical meetings comprised of the bidders presenting their designs as they evolved and the client and professional team providing feedback on these designs. The Legal and Financial meetings involved the bidders clarification on the draft Heads of Terms for the Development Agreement, the structure of their consortium and the structure of the proposed transaction.
- 6.5 Outline Solutions were submitted on 21st May by the three remaining consortia.
- 6.6 Outline Solutions comprised of design submissions for Base and Variant schemes on the Poplar Baths and Dame Colet sites as well as financial offers for both the Base and Variant schemes for both sites.
- 6.7 The base scheme for the Baths site comprised the refurbished baths option approved at Cabinet in July 2011 on a 25 year leaseback basis. The bidders were then allowed in their variant bid to amend the lease periods, management basis and the extent of the works to the existing buildings in order to encourage better value bids. Additionally the base scheme also included for a minimum of 60 socially rented housing units to the site behind the baths, again on the basis of a 25 year lease and lease back basis with the Borough managing the housing stock. The variant bid then allowed the bidders to propose different lease terms and management arrangements with the use of registered providers.
- 6.8 For the Dame Colet and Haileybury site the base scheme required the delivery of a minimum of 40 socially rented housing units together with a new youth and community building. For the variant bids bidders were again allowed to vary the lease length and management arrangements in line with the housing on the Baths site.

- 6.9 On 23rd May, each of the consortia presented their submission to the professional team, Evaluation Panel and relevant LBTH personnel.
- 6.10 Following receipt of submissions, the professional team reviewed the full documents and provided the Evaluation Panel with an indication of the recommended score (fail, low, acceptable, good and exemplar) for each section (commercial proposition, planning strategy, quality, mix of uses, local issues and management) of the Technical Evaluation.

Scoring

- 6.10 In accordance with the evaluation criteria set out in the invitation to submit outline solutions the technical element for each scheme and each site was worth 40% of the overall marks with the financial element for each scheme and each site being worth 60% of the overall marks. The technical and financial scores were then added together to give an overall score for:

Poplar Baths Base Scheme

Poplar Baths Variant Scheme

Dame Colet Base Scheme

Dame Colet Variant Scheme

- 6.10 The highest scoring Poplar Baths scheme (Base or Variant) would then be weighted at 70% and the highest scoring Dame Colet scheme (Base or Variant) would then be weighted at 30%, to give an overall score for each bidder.

Technical Evaluation

- 6.11 The Evaluation Panel comprised the both senior council officers and external technical and legal advisors.
- 6.12 Following this evaluation process and endorsed by the Project Board, it is recommended to proceed with the top 2 scoring bidders.
- 6.13 In order to maintain the programme it is intended to invite the 2 successful bidders to commence the next stage of dialogue by the 25th July 2012.

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 This report outlines the progress made to date with regard to proposals for redevelopment of the Poplar Baths and Dame Colet House sites. Cabinet

has previously agreed (March 2010 and July 2011) to set aside S106 and capital resources in order that the scheme be developed to this stage in the procurement process. Officers now need Mayor and Cabinet financial approval of the scheme, in order to progress to the next stage of the feasibility and procurement process to provide assurance to bidders of the Council's intent.

- 7.2 To protect the Council's financial interest key aspects of the Chief Financial Officer's comments are set out in a separate report on part II of the agenda.
- 7.3 The base scheme on which bidders have been asked to submit outline proposals, has assumed key standard specifications, including the number of housing units to be provided, and that the whole development operate via a finance lease back to the Council. This has been to facilitate a consistent approach to assessing outline bids. Bidders have also been asked to provide a variant bid that provides more development and finance flexibility for the Council, both for the General Fund and Housing Revenue Account functions. Financial approval to progress to the next stage of the competitive dialogue process will include exploring the most cost-effective model of delivery, which may or may not involve a finance lease based approach.
- 7.4 If the Council was to contract for the development itself, rather than through a finance lease arrangement it would have to secure the finance through unsupported borrowing. Whilst the net present value of providing the scheme through borrowing, as opposed to via a leaseback arrangement is likely to be less, over the 25 year period, there are other operational risks that need to be taken into account and enumerated. That assessment will be undertaken as part of the second stage of the competitive dialogue process.
- 7.5 Should Mayor and Cabinet be minded to proceed, whatever finance model is adopted, provision now needs to be made both in the General Fund and the Housing Revenue Account for the likely revenue impacts. Those revenue impacts are significant, will be wholly or partially inflation linked, and will remain as fixed costs to the Council for a minimum of 25 years.
- 7.6 Provision has been made in the Council's medium term financial strategy, as agreed by the Council in February 2012, for additional General Fund capital schemes valuing some £30million to be financed via prudential borrowing. A scheme of this nature, whatever the financial model adopted, will exhaust that provision. Further provision may therefore need to be made in the Medium Term Financial Plan and Capital Programme for any additional capital schemes required over the period of the MTFP. A decision to proceed therefore must be taken in light of competing demands for capital investment likely to come forward, both with regard to existing assets and new facilities that may be required to cope with a growing population, increased housing and the new capital pressures they will bring.
- 7.7 The affordable rents receivable on the housing development, over the period of the HRA business plan, would not be sufficient to repay the development financing costs. That in itself is not unusual. The development of new supply

social and affordable housing invariably requires some form of up-front grant support. As a rule of thumb assumption a £10m affordable housing development scheme would require a minimum £3m cash grant to break even over the period of the business plan. In certain circumstances up to 30% of the development could be financed through Right-to-Buy receipts under new rules announced by the Government in May 2012. Any borrowing within the HRA will need to take account of the Council's debt cap, which puts a statutory limit on the overall level of outstanding debt the Council is able to hold within the HRA.

- 7.8 The housing element of the scheme would generate some £900k additional New Homes Bonus over the six year period following its completion. That could be used to partially offset the net cost of the scheme. However this would be a small proportion of the cost of the scheme.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1 The Council has conducted the Procurement process for this contract using the Competitive Dialogue procedure in accordance with the Public Contracts Regulation 2006. This procedure is used in the case of particularly complex contracts where contracting authorities consider that the use of the open or restricted procedure will not allow the award of the contract.
- 8.2 A contract is "particularly complex" when the Authority is not able to objectively define:
- the technical means capable of satisfying their needs or objectives and/or
 - the legal and/or financial make up of a project. This is broadly interpreted as contracting authority not be able to produce a single specification or legal/financial documents at the outset which would enable it to identify the best solution to meet its needs One of the purposes of the procurement process is to work with potential providers to identify which solution is best.
- 8.3 The Competitive Dialogue procedure was considered appropriate in this Case given that the Council is seeking to obtain not only the refurbishment of Poplar Baths to bring it back into public use but also the maximum number of new build homes and a new build youth facility on the Haileybury Centre site . The scope of OJEU notice was comprehensively drafted to enable the contracting authority to have discussions with bidders with the aim of identifying and defining the means best suited to meet the contracting authority's needs.
- 8.4 The Competitive Dialogue Process has produced a number of contract proposals from the two remaining bidders which will fulfil the Council's requirements and these now need to be developed and tested through the final stages of the dialogue process to determine which offer will produce maximum benefit for the borough.

- 8.5 This contract will be consistent with the Council's obligation as a best value authority under the Local Government Act 1999 to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 This project provides the improved opportunities for access to community leisure and youth facility along with affordable rented homes. At the next stage of dialogue, where there is more certainty around the proposed schemes, a detailed EQIA will be undertaken.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 The schemes will comply with the Council's requirements on the reduction of carbon emissions, energy consumption along with green and sustainable construction delivery.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 The main risk that exists for the project are as follows:

- A. The project over-runs its programme incurring additional costs for the Authority, including bid costs
- B. Lack of resources to maintain the programme

The above will be managed through strong project governance arrangements on the project, building on good practice on complex commercial negotiations undertaken by the borough over recent years.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 The project will provide homes that are of a better design in terms of orientation to maximise passive supervision of common and external areas, with safe pedestrian routes to and from the homes. The community leisure and youth facilities will promote positive activities for young people to engage with.

13. EFFICIENCY STATEMENT

Provision of additional new homes will contribute to the Council's Overcrowding Strategy, through rehousing those tenants most in need. The homes, along with the refurbished properties and the Youth Centre will be built to sustainable design standards, therefore reducing the financial impact

for residents and users. The procurement process will identify the most efficient means of delivering this key Mayoral priority.

Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
Cabinet Report 6 July 2011 Cabinet Report 14 th March 2010	Ann Sutcliffe Service Head, Strategic Property & Capital Delivery

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE CABINET

HELD AT 5.35 P.M. ON WEDNESDAY, 4 JULY 2012

COMMITTEE ROOM, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG

Members Present:

Mayor Lutfur Rahman (Mayor)	(Mayor)
Councillor Ohid Ahmed (Deputy Mayor)	(Deputy Mayor)
Councillor Rofique U Ahmed	(Cabinet Member for Regeneration)
Councillor Shahed Ali	(Cabinet Member for Environment)
Councillor Abdul Asad	(Cabinet Member for Health and Wellbeing)
Councillor Alibor Choudhury	(Cabinet Member for Resources)
Councillor Shafiqul Haque	(Cabinet Member for Jobs and Skills)
Councillor Rabina Khan	(Cabinet Member for Housing)
Councillor Rania Khan	(Cabinet Member for Culture)
Councillor Oliur Rahman	(Cabinet Member for Children's Services)

Other Councillors Present:

Councillor Kabir Ahmed	(Executive Advisor to the Mayor and Cabinet)
Councillor Stephanie Eaton	
Councillor Peter Golds	(Leader of the Conservative Group)
Councillor Ann Jackson	(Chair, Overview & Scrutiny Committee)
Councillor Md. Maium Miah	(Advisor to the Mayor and Cabinet on Third Sector and Community Engagement)
Councillor Gulam Robbani	(Executive Advisor to the Mayor and Cabinet on Adult Social Care)

Others Present:**Officers Present:**

Ross Archer	– (Political Adviser to the Conservative Group, Chief Executive's)
Sarah Barr	– (Senior Strategy Policy and Performance Officer, One Tower Hamlets, Chief Executive's)
Robin Beattie	– (Service Head, Strategy & Resources & Olympic Impact, Communities Localities & Culture)
Kate Bingham	– (Acting Service Head Resources, Children

	Schools & Families)
Stephen Cody	– (Interim Corporate Director Adults Health & Wellbeing)
David Courcoux	– (Political Adviser to the Labour Group, Chief Executive's)
Aman Dalvi	– (Corporate Director, Development & Renewal)
Thorsten Dreyer	– (Strategy & Business Development Manager – Culture Environmental Control & Spatial Planning, Communities Localities and Culture)
Emily Fieran-Reid	– (Head of Community Safety Partnership, Domestic Violence & Hate Crime)
Isabella Freeman	– (Assistant Chief Executive - Legal Services, Chief Executive's)
Chris Holme	– (Service Head Resources, Development & Renewal)
Paul Leeson	– (Finance Manager, Development & Renewal)
Andy Mace	– (Development Manager, Major Project Development, Development & Renewal)
Chris Naylor	– (Corporate Director Resources)
Jackie Odunoye	– (Service Head, Strategy, Regeneration & Sustainability, Development & Renewal)
Takki Sulaiman	– (Service Head Communications, Chief Executive's)
Ann Sutcliffe	– (Service Head Building Strategic Property and Capital Delivery, Development & Renewal)
James Walsh	– (Housing Regeneration Officer, Major Project Development, Development & Renewal)
Chris Worby	– (Technical Advisor to Senior Managers, Development & Renewal)
Matthew Mannion	– (Committee Services Manager, Democratic Services, Chief Executive's)
Angus Taylor	– (Interim Committee Services Manager (Operational), Democratic Services, Chief Executive's)

The following is a record of those decisions taken by the Cabinet at their meeting held on Wednesday 4th July 2012.

Most decisions may be 'called in', by the Assistant Chief Executive, for scrutiny by the Overview and Scrutiny Committee to be held on **Tuesday 24th July 2012** on receipt of a written request.

The **deadline** for the receipt of any such written request is **5.00pm on Friday 13th July 2012**. Such requests should be made to John Williams, Service Head Democratic Services-Tel 020 7364 4204.

The request to "call in" a decision must comply with the requirements set out in the Council's Constitution (Part 4 – Rules of Procedure, Section 4.5 – Overview and Scrutiny Procedure Rules, Rules 16.2 and 16.3). This

sets out the time-scale for “call in”, those persons who may “call in” and those details the request must contain.

The Council’s Constitution (Part 4 – Rules of Procedure, Section 4.5 – Overview and Scrutiny Procedure Rules, Rule 16.4) **sets out those decisions that may not be “called in”** for further consideration by the Overview and Scrutiny Committee.

Report authors will be advised by Democratic Services if any decision in respect of an item they have placed on the agenda has been “called in”.

Any decision not “called in” for scrutiny can be implemented on Monday 16th July 2012.

Any decision ‘called in’ for scrutiny but supported by the Overview and Scrutiny Committee, at its meeting on Tuesday 24th July 2012, **can be implemented** the following day, **Wednesday 25th July 2012.**

Any decision ‘called in’ for scrutiny but not supported by the Overview and Scrutiny Committee, at its meeting on Tuesday 24th July 2012, will be **referred back to the Mayor in Cabinet** for further consideration on **Wednesday 25th July 2012.**

MR L. RAHMAN (MAYOR) IN THE CHAIR

10. ONE TOWER HAMLETS

10.1 Poplar Baths and Dame Colet House - tender process update (CAB 016/123)

Councillor Ohid Ahmed declared a personal interest in Agenda item 10.1 “Poplar Baths and Dame Colet House – tender process update” (CAB 016/123). The declaration of interest was made on the basis that the report contained recommendations relating to Poplar Baths and he had a close relationship with the Poplar Baths Steering Group and had participated in the community campaign to reopen the baths.

Councillor Abdul Asad declared a personal interest in Agenda item 10.1 “Poplar Baths and Dame Colet House – tender process update” (CAB 016/123). The declaration of interest was made on the basis that the report contained recommendations relating to Dame Colet House, which was located close to his home.

Councillor Alibor Choudhury declared a personal interest in Agenda item 10.1 “Poplar Baths and Dame Colet House – tender process update” (CAB 016/123). The declaration of interest was made on the basis that the report contained recommendations relating to Dame Colet House/ Haileybury Centre and Councillor Choudhury had been a member of the Authority’s Strategic

Development Committee and been present at the meeting of it which determined that Section 106 monies be allocated to Dame Colet House/ Haileybury Centre.

Councillor Oliur Rahman declared a personal interest in Agenda item 10.1 “Poplar Baths and Dame Colet House – tender process update” (CAB 016/123). The declaration of interest was made on the basis that the report contained recommendations relating to Dame Colet House, located in St Dunstan’s and Stepney Green Ward, and Councillor Rahman was a Ward Councillor for that Ward.

Decision

1. That the progress made on the procurement process be noted; and
2. That consideration of recommended decisions 2.2 to 2.4, as set out in the report (CAB 016/123), be deferred until the consideration of the exempt/ confidential report “Poplar Baths and Dame Colet House - tender process update” (CAB 017/123) in Section two of the proceedings.

CORPORATE DIRECTOR COMMUNITIES LOCALITIES AND CULTURE (S. HALSEY)

CORPORATE DIRECTOR DEVELOPMENT AND RENEWAL (A. DALVI)
Service Head, Corporate Property and Capital Delivery, Development and Renewal (A. Sutcliffe)

13. EXCLUSION OF THE PRESS AND PUBLIC

Decision

That pursuant to regulation 21(1)(b) of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, the press and public be excluded from the remainder of the meeting:

- (a) As it was likely, in view of the nature of the business to be transacted in Section Two of the agenda, that if members of the public were present during consideration of this business there would be disclosure of exempt information.
 - Exempt information is defined in section 100I and, by reference, Schedule 12A of the Local Government Act 1972 (“the 1972 Act”). To be exempt, information must fall within one of the categories listed in paragraphs 1 to 7 of Schedule 12A, must not fall within one of the excluded categories in paragraphs 8 and 9 and the public interest in maintaining the exemption must outweigh the public interest in disclosing the information.
 - Agenda item 14. “Exempt/ Confidential Minutes” (of the meeting of the Cabinet held on 20th June 2012) contained information:

Relating to the financial or business affairs of any particular person (including the authority holding that information). In particular information relating to:

- ∇ The financial affairs of the London Housing Corporation (LHC) and the Council.
- ∇ The financial affairs of both the Council and Rich Mix Cultural Foundation.

In respect of which a claim to legal professional privilege could be maintained in legal proceedings. In particular both legal advice as well as material prepared in direct contemplation of legal proceedings.

- Agenda item 20.1 “Poplar Baths and Dame Colet House – tender process update” (CAB 017/123).” contained information relating to the financial or business affairs of any particular person (including the authority holding that information). In particular information relating to the financial affairs of the Council.
- (b) As although there is a public interest favouring public access to local authority meetings, in this case the Cabinet concluded that given the information contained in:
- Agenda item 14. “Exempt/ Confidential Minutes” (of the meeting of the Cabinet held on 20th June 2012) contained information:

Relating to the financial or business affairs of any particular person (including the authority holding that information). In particular information relating to:

 - ∇ The financial affairs of the London Housing Corporation (LHC) and the Council.
 - ∇ The financial affairs of both the Council and Rich Mix Cultural Foundation.

In respect of which a claim to legal professional privilege could be maintained in legal proceedings. In particular both legal advice as well as material prepared in direct contemplation of legal proceedings.
 - Agenda item 20.1 “Poplar Baths and Dame Colet House – tender process update” (CAB 017/123).” contained information relating to the financial or business affairs of any particular person (including the authority holding that information). In particular information relating to the financial affairs of the Council.

that the public interest in maintaining the exemption on the information outweighed the public interest in disclosing it.

SUMMARY OF EXEMPT PROCEEDINGS

20. ONE TOWER HAMLETS

20.1 Poplar Baths and Dame Colet House - tender process update (CAB 017/123)

Councillor Ohid Ahmed declared a personal interest in Agenda item 20.1 "Poplar Baths and Dame Colet House – tender process update" (CAB 017/123). The declaration of interest was made on the basis that the report contained recommendations relating to Poplar Baths and he had a close relationship with the Poplar Baths Steering Group and had participated in the community campaign to reopen the baths.

Councillor Abdul Asad declared a personal interest in Agenda item 20.1 "Poplar Baths and Dame Colet House – tender process update" (CAB 017/123). The declaration of interest was made on the basis that the report contained recommendations relating to Dame Colet House, which was located close to his home.

Councillor Alibor Choudhury declared a personal interest in Agenda item 20.1 "Poplar Baths and Dame Colet House – tender process update" (CAB 017/123). The declaration of interest was made on the basis that the report contained recommendations relating to Dame Colet House/ Haileybury Centre and Councillor Choudhury had been a member of the Authority's Strategic Development Committee and been present at the meeting of it which determined that Section 106 monies be allocated to Dame Colet House/ Haileybury Centre.

Councillor Oliur Rahman declared a personal interest in Agenda item 20.1 "Poplar Baths and Dame Colet House – tender process update" (CAB 017/123). The declaration of interest was made on the basis that the report contained recommendations relating to Dame Colet House, located in St Dunstan's and Stepney Green Ward, and Councillor Rahman was a Ward Councillor for that Ward.

Decision

1. That the progress made on the procurement process be noted;
2. That the Corporate Director Communities Localities & Culture and the Corporate Director Development & Renewal be authorised to proceed the competitive dialogue to final tenders with bidders 2 and 3 and with the variant bids as set out in the report (CAB 017/123);
3. That the Corporate Director Communities Localities & Culture and the Corporate Director Development & Renewal be instructed to submit the final report, recommending the final bidder and contract sum prior to contract award, for the consideration of the Mayor in Cabinet;
4. That it be confirmed that funding will be available to meet the potential contract costs subject always to satisfactory tenders and final sum; and

5. That the Corporate Director Communities Localities & Culture and the Corporate Director Development & Renewal be instructed to provide a timeline (subject to the planning consent process) for the commencement of works on both the Poplar Baths and Dame Colet/ Haileybury Centre schemes.

Action by:

CORPORATE DIRECTOR COMMUNITIES LOCALITIES AND CULTURE (S. HALSEY)

CORPORATE DIRECTOR DEVELOPMENT AND RENEWAL (A. DALVI)

Service Head, Corporate Property and Capital Delivery, Development and Renewal (A. Sutcliffe)

The meeting ended at 6.25 p.m.

Isabella Freeman

ASSISTANT CHIEF EXECUTIVE (Legal Services)

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Committee/Meeting: Cabinet	Date: 9 th Jan 2013	Classification: Unrestricted	Report No: CAB
Report of: Corporate Director Community, Localities and Culture and Corporate Director Development and Renewal Originating officer(s) Ann Sutcliffe Service Head Corporate Property and Capital Delivery		Title: Poplar Baths and Dame Colet House – tender process update and selection of preferred bidder Wards Affected: Blackwall & Cubitt Town Limehouse East India & Lansbury St Dunstan's & Stepney Green	

Lead Member	Cllr Rabina Khan (Lead Member – Housing and Development) Cllr Choudhury (Lead Member – Resources)
Community Plan Theme	Building one Tower Hamlets
Strategic Priority	1.4 Provide effective local services and facilities

1. **SUMMARY**

- 1.1 This report deals with the selection of the preferred bidder for the Poplar Baths and Dame Colet Project and the delegated authority to conclude Contract negotiations and enter into contract with the preferred bidder.
- 1.2 This report provides Members with an update on the procurement process for the refurbishment and re-use of Poplar Baths, provision of new homes adjacent to the Poplar Baths Site, new homes on the Dame Colet site and the provision of a new Haileybury Youth Centre.

2. **DECISIONS REQUIRED**

Council is recommended to:-

- 2.1 Agree to the recommendation of the procurement evaluation panel to approve the developer consortium mentioned in the tabled Part 2 report as the preferred bidder;
- 2.2 Authorise officers to proceed with the final stage of procurement in finalising agreements with a preferred bidder;

- 2.3 Authorise officers to nominate the unsuccessful bidder as a reserve and to authorise the Director of Community Localities and Culture, following discussion with the Executive Mayor to call upon this reserve if the preferred bidder's position deviates significantly from that tendered.
- 2.4 Following consultation with the Executive Mayor and the Lead Member for Resources, authorise the Director of Community Localities and Culture and the Assistant Chief Executive Legal in conjunction to approve and finalise the contract terms in accordance with the bid and to complete the contract; and,
- 2.5 A capital estimate to the value of £36m be referred to full Council for the development of the Poplar Baths and Dame Colet sites.
- 2.6 Confirm that funding requirements as outlined in the Part 2 report will be available to meet the potential contract costs subject completion of the contract.

3. REASONS FOR THE DECISIONS

- 3.1 Cabinet agreed on 6th July 2011 that officers should develop a proposal for Poplar Baths and Dame Colet House for procurement and implementation. The decision was made to achieve the following:
- That the retained Poplar Baths be refurbished and remodelled, retaining the heritage features of the building
 - Provision of a minimum of a 100 additional new build homes adjacent to Poplar Baths and on the Dame Colet House sites
 - Provision of a new build youth facility on the existing Haileybury Centre site
- 3.2 Cabinet further agreed on 4th July 2012 that officers should proceed with their recommended shortlist of two bidders through final dialogue and invite final tenders.
- 3.3 This reports provide feedback on the ITSFT submissions, and the recommendation to proceed to conclusion of the tendering process and appointment of the preferred bidder as set out in the original OJEU notice.

4. ALTERNATIVE OPTIONS

- 4.1 The final business case attached in Part 2 details the alternate options assessment undertaken around delivery.

5. BACKGROUND

- 5.1 The Cabinet agreed on the 6th July 2011 that the Poplar Baths Project should proceed to procurement, working with private sector partners to

delivery the most cost effective option for the Council for the provision of refurbished/remodelled baths, additional home and a new build youth centre.

6. Main Body of the Report

Process to date

- 6.1 LBTH issued an OJEU Contract Notice (2011/S 194-316050) on 8th October 2011 via the London Tenders Portal. Further to the Cabinet decision of 4th July 2012 two parties were invited to participate in the final stage of dialogue.
- 6.2 The 2 parties were:

Bouygues UK consortium, and

Guildmore Ltd
- 6.3 The two selected bidders were invited to participate in a further period of Competitive Dialogue procurement process by attending Design & Technical and Legal and Financial meetings between the 17th July and 12th November 2012. The Design & Technical meetings comprised of the bidders presenting their designs as they evolved and the client and professional team providing feedback on these designs. The Legal and Financial meetings involved the bidder's clarification on lease terms and Development Agreement, the structure of their consortium and the structure of the proposed transaction.
- 6.4 Bidders were then invited to present their proposed schemes to the Council stakeholder departments and feedback was provided to each before close of dialogue.
- 6.5 Dialogue was formerly closed on Tuesday 13th November 2012 and final tenders were submitted on 30th November by both bidders.
- 6.6 The final tenders comprised of design submissions for the proposed schemes as well as financial offers and derogations against the proposed legal documents.
- 6.7 The schemes for the Baths site comprised the refurbished baths option approved at Cabinet in July 2011 but modified to allow for a full sized 25m pool on a 35 year leaseback basis. The housing scheme provided for a minimum of 60 socially rented housing units to the site behind the baths, again on the basis of a 35 year lease and lease back basis with the Borough's arm's length organisation, the ALMO managing the housing stock.
- 6.8 For the Dame Colet and Haileybury site the scheme required the delivery of a minimum of 40 socially rented housing units together with a new youth and community building. Again these were all on a 35 year leaseback basis.

- 6.9 Following receipt of submissions, the professional team reviewed the full documents and provided the Evaluation Panel with an indication of the recommended score (fail, low, acceptable, good and exemplar) for each section (commercial proposition, planning strategy, quality, mix of uses, local issues and management) of the Technical Evaluation.

Scoring

- 6.10 In accordance with the evaluation criteria set out in the invitation to submit final tenders the technical element for each scheme and each site was worth 40% of the overall marks with the financial element for each scheme and each site being worth 60% of the overall marks. The technical and financial scores were then added together to give an overall score for each site and these were then combined to give an overall score.
- 6.11 The Poplar Baths scheme would then be weighted at 70% and the Dame Colet scheme would then be weighted at 30%, to give an overall score for each bidder.

Evaluation

- 6.12 The Evaluation Panel comprised both senior council officers and external technical and legal advisors.
- 6.13 Following this evaluation process which was endorsed by the Project Board, it is recommended to proceed with the Bidder 1 – the highest scoring bidder as identified in the part 2 report.

Programme

- 6.14 Upon receipt of Cabinet approval officers will proceed with finalisation of contract documents to allow detailed design and planning applications to be made. The table below outlines the programme for these works; this has been approved by the selected bidder and will be monitored by the procurement team.

Activity	Start date	Completion Date
Cabinet selection of successful bidder	09/01/13	09/01/13
Alcatel period	09/01/13	19/01/13
Final clarifications	19/01/13	28/02/13
Contract close	28/02/13	28/02/13

Preparation and submission of planning permission	28/02/13	25/06/13
Planning	26/06/13	16/10/13
Financial Close	31/11/13	31/11/13
JR period	17/10/13	16/01/14

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 This report updates Cabinet on the progress of the Poplar Baths and Dame Colet House schemes since 4th July 2012, and asks the Mayor in Cabinet to consider the recommendations of the procurement evaluation panel and approve a developer consortium to deliver the scheme.
- 7.2 To protect the Council's financial interest key aspects of the Chief Financial Officer's comments are set out in a separate report on Part II of the agenda.
- 7.3 The base scheme on which bidders have now submitted their final bids, has assumed key standard specifications, including the number of housing units to be provided, and that the whole development operate via a finance lease back of 35 years to the Council. A detailed financial appraisal has now been undertaken of each of the bids, together with a comprehensive financial review of each of the companies which make up the Special Purpose Vehicle (SPV). The SPV will develop and refurbish the properties and lease them back to the authority over a 35 year period. The SPV is responsible for running Poplar Baths leisure complex but the new dwellings are managed and internally maintained by Tower Hamlets Homes (THH). Under the Development Agreement, the annual lease payment becomes payable once the development period has ended.
- 7.4 Each of the four elements of the project will be financed through a finance lease. A finance lease is defined as an agreement where risks and rewards of ownership are substantially transferred to the lessee. The lease term is for the major part of the economic life of the asset and ownership of the asset transfers to the lessee at the end of the lease period. It is therefore clear, that as ownership of the asset transfers to the lessee at the end of the lease period, these leases can only be classified as a finance leases.
- 7.5 In accordance with accounting standard IAS 17 and the Prudential Code for Capital Finance in Local Authorities if the leases are classified as finance leases the assets and the liabilities have to be recognised in the Authority's balance sheet. The recognition of property plant & equipment will be matched by long term liabilities defined as credit arrangements. These credit arrangements will count in the calculation of the capital financing requirement. Adoption of a capital estimate is therefore required by the Mayor in Cabinet. The development costs, including internal clienting arrangements are likely to

be up to £36m, taking into account project financing risks (for example changes to rates on interest.) This will be split £20m capital estimate within the General Fund and £16m within the Housing Revenue Account.

- 7.6 Provision has been made in the Council's medium term financial strategy, as agreed by the Council in February 2012, for additional General Fund capital schemes valuing some £30million to be financed via prudential borrowing. The recommended GF element of the capital estimate is within those parameters.
- 7.7 The annual overall net revenue costs are estimated at between £1.6m - £1.8m, with approximately £1.25m of this attributable to the General Fund. This includes the annual cost of running the Poplar Baths facility, which for each bid is less than £100k per annum.
- 7.8 The affordable rents receivable on the housing development, over the period of the HRA business plan, will not be sufficient to repay the development financing costs. Indeed the annual gap will be up to £500k. Furthermore because this is a finance lease and deemed to be notional borrowing the housing developments will count against the Council's authorised debt cap under the HRA self-financing regulations. The HRA borrowing headroom will reduce by up to £16m. This will mean that the Council will reach its debt cap earlier than currently predicted in the 30 year business plan. To compensate for the loss of capital resources additional resources of between £400k and £500k per annum will need to be identified to supplement HRA reserves to deliver the long term capital investment needs of the existing housing stock. In total, therefore, full year savings of between £750 and £1,050k per annum are required from 2015/16 to deliver a balanced HRA business plan. Savings have been factored into the HRA Medium Term Financial Plan to offset these costs.
- 7.9 The housing element of the scheme could generate some £900k additional New Homes Bonus over the six year period following its completion, assuming no change to Government policy with regards to its allocations. That could be applied to partially offset the net cost of the scheme.
- 7.10 As outlined in the Risk Management Implications (paragraph 11.2), tenants will potentially maintain the right to buy the new rented properties. The Authority will be able to fully utilise any capital receipt but will receive reduced rental income while still being liable to make the full lease payment to the Special Purpose Vehicle over the period of the lease.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1 The Council has conducted the Procurement process for this contract using the Competitive Dialogue procedure in accordance with the Public Contracts Regulation 2006. This procedure is used in the case of particularly complex

contracts where contracting authorities consider that the use of the open or restricted procedure will not allow the award of the contract.

- 8.2 A contract is "particularly complex" when the Authority is not able to objectively define:
- the technical means capable of satisfying their needs or objectives and/or
 - the legal and/or financial make up of a project. This is broadly interpreted as contracting authority not be able to produce a single specification or legal/financial documents at the outset which would enable it to identify the best solution to meet its needs One of the purposes of the procurement process is to work with potential providers to identify which solution is best.
- 8.3 The Competitive Dialogue procedure was considered appropriate in this Case given that the Council is seeking to obtain not only the refurbishment of Poplar Baths to bring it back into public use but also the maximum number of new build homes and a new build youth facility on the Haileybury Centre site . The scope of OJEU notice was comprehensively drafted to enable the contracting authority to have discussions with bidders with the aim of identifying and defining the means best suited to meet the contracting authority's needs.
- 8.4 The Competitive Dialogue Process has produced contract proposals from the two remaining bidders.
- 8.5 This contract will be consistent with the Council's obligation as a best value authority under the Local Government Act 1999 to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 8.6 The council retains the freehold of the land and grants a licence to build to the developer and upon practical completion of the works the lease is granted. This ensures that title does not pass before the works are completed.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 This project provides the improved opportunities for access to community leisure and youth facility along with affordable rented homes. A EIA has been undertaken and is attached to this report.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 The schemes will comply with the Council's requirements on the reduction of carbon emissions, energy consumption along with green and sustainable construction delivery.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 The main risks that exist for the project are as follows:

A. The project over-runs its programme, incurring additional costs for the Authority, including bid costs

B. A lack of resources to maintain the programme

The above will be managed through strong project governance arrangements on the project, building on good practice on complex commercial negotiations undertaken by the borough over recent years.

11.2 Recent legal advice indicates that although the Authority is leasing the dwellings for the thirty-five year period, there is potential that tenants moving into the properties will maintain their ability to exercise the right to buy on these dwellings. The Authority will therefore continue to be liable for the lease rental payments to the Special Purpose Vehicle, but will no longer generate rental income. The capital receipts generated will be fully usable by the Authority, with resources recycled into the scheme.

11.3 There are a number of risks associated with the final tender recommendations; these are detailed in the part 2 report.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

12.1 The project will provide homes that are of a better design in terms of orientation to maximise passive supervision of common and external areas, with safe pedestrian routes to and from the homes. The community leisure and youth facilities will promote positive activities for young people to engage with.

13. EFFICIENCY STATEMENT

Provision of additional new homes will contribute to the Councils Overcrowding Strategy, through rehousing those tenants most in need. The homes, along with the refurbished properties and the Youth Centre will be built to sustainable design standards, therefore reducing the financial impact for residents and users. The procurement process will identify the most efficient means of delivering this key Mayoral priority.

**Local Government Act, 1972 Section 100D (As amended)
List of "Background Papers" used in the preparation of this report**

Brief description of “background papers”

Name and telephone number of holder
and address where open to inspection.

Cabinet Report 6 July 2011

Cabinet Report 14th March 2010

Ann Sutcliffe

Service Head, Strategic Property &
Capital Delivery

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LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE CABINET

HELD AT 5.34 P.M. ON WEDNESDAY, 9 JANUARY 2013

**COMMITTEE ROOM, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Mayor Lutfur Rahman	
Councillor Ohid Ahmed (Deputy Mayor)	(Deputy Mayor)
Councillor Rofique U Ahmed	(Cabinet Member for Regeneration)
Councillor Abdul Asad	(Cabinet Member for Health and Wellbeing)
Councillor Alibor Choudhury	(Cabinet Member for Resources)
Councillor Shafiqul Haque	(Cabinet Member for Jobs and Skills)
Councillor Rabina Khan	(Cabinet Member for Housing)
Councillor Oliur Rahman	(Cabinet Member for Children's Services)

Other Councillors Present:

Councillor Kabir Ahmed	(Executive Advisor to the Mayor and Cabinet)
Councillor Stephanie Eaton	
Councillor Marc Francis	
Councillor Carlo Gibbs	
Councillor Peter Golds	(Leader of the Conservative Group)
Councillor Md. Maium Miah	(Advisor to the Mayor and Cabinet on Third Sector and Community Engagement)
Councillor Ann Jackson	(Chair, Overview & Scrutiny Committee)
Councillor Gulam Robbani	

Officers Present:

Stephen Adams	– (Finance and Resources Manager, Communities Localities & Culture)
Katherine Ball	– (Senior Accountant, Development & Renewal)
Sarah Barr	– (Senior Strategy Policy and Performance Officer, One Tower Hamlets, Chief Executive's)
Robin Beattie	– (Service Head, Strategy & Resources & Olympic Impact, Communities Localities & Culture)
Anne Canning	– (Service Head Learning & Achievement, Children's Services)

Isobel Cattermole	– (Acting Corporate Director, Children, Schools & Families and Adult Health and Wellbeing)
Deborah Cohen	– (Service Head, Commissioning and Strategy, Adults Health and Wellbeing)
John Coker	– (Strategic Housing Manager, Development & Renewal)
Aman Dalvi	– (Corporate Director, Development & Renewal)
Emily Fieran-Reed	– (Head of Community Safety Partnership, Domestic Violence & Hate Crime)
Isabella Freeman	– (Assistant Chief Executive - Legal Services, Chief Executive's)
Stephen Halsey	– (Corporate Director Communities, Localities & Culture and Interim Head of Paid Service)
Chris Holme	– (Service Head Resources, Development & Renewal)
Numan Hussain	– (Political Advisor to the Mayor, Executive Mayor's Office, Chief Executive's)
Ellie Kuper-Thomas	– (Strategy, Policy and Performance Officer - Executive Mayor's Office, One Tower Hamlets, Chief Executive's)
Paul Leeson	– (Finance Manager, Development & Renewal)
Andy Mace	– (Development Manager, Major Project Development, Development & Renewal)
Jackie Odunoye	– (Head of Strategy, Innovation & Sustainability, Development & Renewal)
Takki Sulaiman	– (Service Head Communications, Chief Executive's)
Ann Sutcliffe	– (Service Head Strategic Property, Development and Renewal)
Claire Symonds	– (Service Head, Customer Access and ICT)
Chris Lovitt	– (Associate Director of Public Health)
Helen Mitchell	– (HRA Accountant)

The following is a record of those decisions taken by the Cabinet at their meeting held on Wednesday 9 January 2013.

Most decisions may be 'called in', by the Assistant Chief Executive, for scrutiny by the Overview and Scrutiny Committee to be held on **Tuesday 5 February 2013** on receipt of a written request.

The **deadline** for the receipt of any such written request is **5.00pm on Friday 18 January 2013**. Such requests should be made to John Williams, Service Head Democratic Services-Tel 020 7364 4204.

The request to "call in" a decision must comply with the requirements set out in the Council's Constitution (Part 4 – Rules of Procedure, Section 4.5 – Overview and Scrutiny Procedure Rules, Rules 16.2 and 16.3). This sets out the time-scale for "call in", those persons who may "call in" and those details the request must contain.

The Council's Constitution (Part 4 – Rules of Procedure, Section 4.5 – Overview and Scrutiny Procedure Rules, Rule 16.4) **sets out those decisions that may not be “called in”** for further consideration by the Overview and Scrutiny Committee.

Report authors will be advised by Democratic Services if any decision in respect of an item they have placed on the agenda has been “called in”.

Any decision not “called in” for scrutiny can be implemented on Monday 21 January 2013.

Any decision ‘called in’ for scrutiny but supported by the Overview and Scrutiny Committee, at its meeting on Tuesday 5 February 2013, can be implemented the following day, Wednesday 6 February 2013.

Any decision ‘called in’ for scrutiny but not supported by the Overview and Scrutiny Committee, at its meeting on Tuesday 5 February 2013, will be referred back to the Mayor in Cabinet for further consideration on Wednesday 6 February 2013.

MR L. RAHMAN (MAYOR) IN THE CHAIR

6. A GREAT PLACE TO LIVE

6.4 Poplar Baths and Dame Colet House - Tender results report and recommendation

Decision

1. To note this report and that there is a further report to be considered in the Part II Exempt section of the meeting.

Action by:

**CORPORATE DIRECTOR COMMUNITIES, LOCALITIES AND CULTURE
(S. HALSEY)**

(Service Head – Strategic Property and Capital Delivery (A. Sutcliffe))

Reasons for the decision

Cabinet agreed on 6th July 2011 that officers should develop a proposal for Poplar Baths and Dame Colet House for procurement and implementation. The decision was made to achieve the following:

- That the retained Poplar Baths be refurbished and remodelled, retaining the heritage features of the building
- Provision of a minimum of a 100 additional new build homes adjacent to Poplar Baths and on the Dame Colet House sites
- Provision of a new build youth facility on the existing Haileybury Centre site

Cabinet further agreed on 4th July 2012 that officers should proceed with their recommended shortlist of two bidders through final dialogue and invite final tenders.

This report provides feedback on the ITSFT submissions, and the recommendation to proceed to conclusion of the tendering process and appointment of the preferred bidder as set out in the original OJEU notice.

Alternative options

The final business case attached in the Part 2 Exempt Report details the alternate options assessment undertaken around delivery.

13. EXCLUSION OF THE PRESS AND PUBLIC

That pursuant to regulation 21(1)(b) of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, the press and public be excluded from the remainder of the meeting:

- (a) As it was likely, in view of the nature of the business to be transacted in Section Two of the agenda, that if members of the public were present during consideration of this business there would be disclosure of exempt information.
- Exempt information is defined in section 100I and, by reference, Schedule 12A of the Local Government Act 1972 (“the 1972 Act”). To be exempt, information must fall within one of the categories listed in paragraphs 1 to 7 of Schedule 12A, must not fall within one of the excluded categories in paragraphs 8 and 9 and the public interest in maintaining the exemption must outweigh the public interest in disclosing the information.
 - Agenda item 16.1. “Poplar Baths and Dame Colet House – Tender results report and recommendation” contained information relating to the financial or business affairs of any particular person (including the authority holding that information). In particular information relating to the financial affairs of the Council.
- (b) As although there is a public interest favouring public access to local authority meetings, in this case the Cabinet concluded that given the information contained in:
 - Agenda item 16.1. “Poplar Baths and Dame Colet House – Tender results report and recommendation” contained information relating to the financial or business affairs of any particular person (including the authority holding that information). In particular information relating to the financial affairs of the Council.

that the public interest in maintaining the exemption on the information outweighed the public interest in disclosing it.

SUMMARY OF EXEMPT PROCEEDINGS

16. A GREAT PLACE TO LIVE

16.1 Poplar Baths and Dame Colet House - Tender results report and recommendation

Decision

1. To agree to the recommendation of the procurement evaluation panel to appoint bidder 1 as preferred bidder;
2. To authorise officers to proceed with the final stage of procurement in finalising the Development Agreement;
3. In consultation with the Mayor and the Cabinet Members for Housing and Resources, to nominate Bidder 2 as a reserve and to call upon this reserve Bidder if finalisation of the Development Agreement with the preferred bidder does not proceed as authorised;
4. To authorise the Director of Community Localities and Culture and the Assistant Chief Executive Legal in conjunction to finalise the Development Agreement terms in accordance with the bid and following consultation with the Mayor and the Lead Member for Resources to complete the Development Agreement and ancillary documents;
5. To adopt a capital estimate to the value of £36m for the development of the Poplar Baths and Dame Colet sites in order to make provision for the eventuality of the reserve bidder being required; and
6. To confirm that funding requirements as outlined in the Part 2 report will be available to meet the potential Development Agreement costs subject to entering into the Development Agreement.

Action by:

**CORPORATE DIRECTOR COMMUNITIES, LOCALITIES AND CULTURE
(S. HALSEY)**

(Service Head – Strategic Property and Capital Delivery (A. Sutcliffe))

The meeting ended at 7.25 p.m.

Isabella Freeman
ASSISTANT CHIEF EXECUTIVE (Legal Services)

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