

Meeting of the

# OVERVIEW & SCRUTINY COMMITTEE

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Tuesday, 3 December 2013 at 7.00 p.m.

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## SUPPLEMENTARY AGENDA

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### VENUE

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

Members:	Deputies (if any):
<p><b>Chair: Councillor Motin Uz-Zaman</b>  <b>Vice-Chair: Councillor Rachael Saunders, (Scrutiny Lead, Adults Health &amp; Wellbeing)</b></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><b>Councillor Stephanie Eaton, (Scrutiny Lead, Resources)</b></p>	
<p><b>Councillor Fozol Miah</b></p>	
<p><b>Councillor Amy Whitelock Gibbs, (Scrutiny Lead, Children, Schools &amp; Families)</b></p>	
<p><b>Councillor Helal Uddin, (Scrutiny Lead, Communities, Localities &amp; Culture)</b></p>	
<p><b>Councillor Abdal Ullah, (Scrutiny Lead, Development &amp; Renewal)</b></p>	
<p><b>Councillor David Snowdon, (Scrutiny Lead, Chief Executive's)</b></p>	
<p><b>1 Vacancy</b></p>	
<p><b>[Note: The quorum for this body is 3 voting Members].</b></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,

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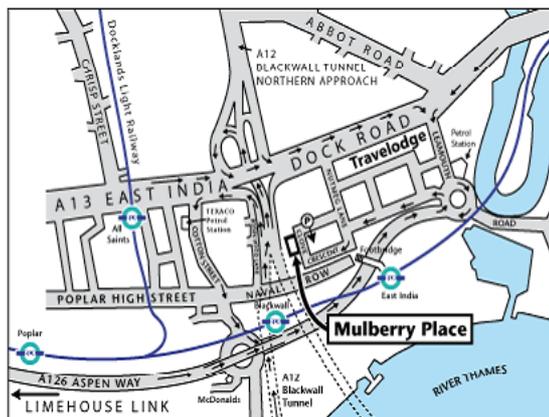
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**LONDON BOROUGH OF TOWER HAMLETS**  
**OVERVIEW & SCRUTINY COMMITTEE**

**Tuesday, 3 December 2013**

**7.00 p.m.**

**7. UNRESTRICTED REPORTS FOR CONSIDERATION**

**7 .1 Reference from Council - Watts Grove Depot Project and financial mechanisms for Dame Colet House and Poplar Baths projects (Pages 1 - 116)**

Report to Follow - To consider the information presented in the report and prepare a response for submission to Council.

# Agenda Item 7.1

<b>Committee:</b> Overview and Scrutiny Committee	<b>Date:</b> 3 December 2013	<b>Classification:</b> Unrestricted	<b>Report No:</b>
<b>Report of:</b> Service Head, Democratic Services  <b>Originating officer(s)</b> Matthew Mannion, Committee Services Manager	<b>Title:</b> Reference from Council – Watts Grove Depot Project  <b>Wards Affected:</b> All Wards		

## **REASONS FOR URGENCY**

This matter was considered by the Overview and Scrutiny Committee at its meeting on 5 November 2013, following which the matter was adjourned with requests for action as outlined in this report. Unfortunately, the time taken to complete the work was such that this report was not published with the main agenda for the Committee's meeting of 3 December 2013. Given that the Committee is responding to a request from Council, the Committee may wish to deal with the item at its meeting of 3 December 2013 rather than waiting to a later meeting so as to allow the statutory notice period to be met.

### 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.
- 1.4 The Overview and Scrutiny Committee met on the 5<sup>th</sup> November 2013 to consider the report prepared by officers. At this meeting it was resolved that the matter be adjourned for further consideration, as outlined in paragraphs 4.3 and 4.4 of this update 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.

## 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 29<sup>th</sup> 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:
  - o *That between the Chancellor’s Emergency Budget in 2010 and 2017/18, the Council’s General Fund budget will have been cut by 50%;*
  - o *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;*
  - o *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;*
  - o *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 this report provides details about the issue to be examined.

4.3 The Overview and Scrutiny Committee met on the 5<sup>th</sup> November to review the report produced by officers in response to the Committee's request. Following consideration of the matter, the Committee determined:

- That further consideration be deferred to the meeting of the OSC to be held on 3<sup>rd</sup> December 2013;
- The Corporate Director Development and Renewal be instructed to provide the further information requested by the Overview and Scrutiny Committee for consideration at this meeting; and
- That appropriate arrangements be made for Overview and Scrutiny Committee members to access any relevant exempt or confidential information in advance of the meeting.

4.4 The further information requested by the committee included:

- Chronology order of the reports issued to the committee (this is attached at Appendix 8).
- A copy of all advice provided to the Mayor in relation to Watts Grove.

4.5 It is confirmed that all advice provided to the Mayor in respect to the decisions made for the Watt Grove development have been provided in the reports to this Committee.

4.6 Following a request made by the Chair at the meeting of 5 November 2013, a review has been undertaken of the commercial sensitivity of the reports relating

to the Watts Grove and Poplar Baths projects. As a result of this review, a report to Cabinet of 4 July 2012 has been included as Appendix 4 to this report.

**5. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

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

**6. LEGAL COMMENTS**

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

**7. ONE TOWER HAMLETS CONSIDERATIONS**

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

**8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

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

**9. RISK MANAGEMENT IMPLICATIONS**

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

**10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

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

**11. EFFICIENCY STATEMENT**

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

**12. APPENDICES**

Appendix 1 – Finance response

Appendix 2 – Project review

Appendix 3 – Executive mayor decision

Appendix 4 – 4 July 2012 Unrestricted and restricted 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 – Chronological order of reports issued to OSC

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**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.
<b>None</b>	<b>N/A</b>

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

<b>Lead Member</b>	Cllr Rabina Khan ( Lead Member – Housing and Development) Cllr Choudhury (Lead Member – Resources)
<b>Community Plan Theme</b>	One Tower Hamlets
<b>Strategic Priority</b>	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. Deloittes, 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 advisors Deloittes 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. Thedesign 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.

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

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

## 1. **SUMMARY**

1.1 On the 18<sup>th</sup> 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 3<sup>rd</sup> March 2012 via the London Tenders Portal. The expressions of interest stage closed on 3<sup>rd</sup> 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 4<sup>th</sup> 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 22<sup>nd</sup> 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 14<sup>th</sup> 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 8<sup>th</sup> March 2013, with three compliant tenders received on the 22<sup>nd</sup> 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 17<sup>th</sup> 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 6<sup>th</sup> 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 4<sup>th</sup> 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 9<sup>th</sup> 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 9<sup>th</sup> 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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<b>Individual Mayoral Decision Proforma</b>  Decision Log No: 31	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Corporate Director Development & Renewal	<b>Classification:</b> Unrestricted/restricted
<b>Watts Grove Depot – tender process update and selection of preferred bidder</b>	

<b>Is this a Key Decision?</b>	<b>Yes</b>
<b>Decision Notice Publication Date:</b>	25 January 2013
<b>General Exception or Urgency Notice published?</b>	<b>Not required</b>
<b>Restrictions:</b>	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:-

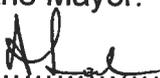
- 2.1 Agree to the recommendation of the procurement evaluation panel to approve Bidder A as the preferred bidder;
- 2.2 Authorise officers to proceed with the final stage of procurement in finalising agreements with a preferred bidder;
- 2.3 Confirm the second placed unsuccessful bidder Bidder C as 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:-

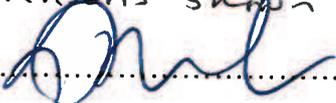
- (a) has been published in advance on the Council's Forward Plan OR
- (b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.

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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<b>Report of:</b>  Corporate Director Development and Renewal  <b>Originating officer(s)</b> Ann Sutcliffe Service Head Corporate Property and Capital Delivery	<b>Title:</b>  Watts Grove Depot – tender process update and selection of preferred bidder  <b>Wards Affected:</b>  Bromley By Bow
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<b>Lead Member</b>	Cllr Rabina Khan ( Lead Member – Housing and Development) Cllr Choudhury (Lead Member – Resources)
<b>Community Plan Theme</b>	One Tower Hamlets
<b>Strategic Priority</b>	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 7<sup>th</sup> 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 3<sup>rd</sup> March 2012 via the London Tenders Portal. The expressions of interest stage closed on 3<sup>rd</sup> 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 4<sup>th</sup> 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 22<sup>nd</sup> 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 14<sup>th</sup> 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 8<sup>th</sup> March 2013, with three compliant tenders received on the 22<sup>nd</sup> 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.

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**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

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

<b>Lead Member</b>	Cllr Rabina Khan ( Lead Member – regeneration and Housing) Cllr Choudhury [Lead Member – Resources]
<b>Community Plan Theme</b>	Building one Tower Hamlets
<b>Strategic Priority</b>	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 6<sup>th</sup> 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 6<sup>th</sup> 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 8<sup>th</sup> October 2011 via the London Tenders Portal. The expressions of interest stage closed on 9<sup>th</sup> 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 1<sup>st</sup> 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 28<sup>th</sup> 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 17<sup>th</sup> April and 14<sup>th</sup> 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 21<sup>st</sup> 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 23<sup>rd</sup> 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 25<sup>th</sup> 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.

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**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 <sup>th</sup> March 2010	Ann Sutcliffe Service Head, Strategic Property & Capital Delivery

<b>Committee/Meeting:</b> Cabinet	<b>Date:</b> 4th July 2012	<b>Classification:</b> Exempt	<b>Report No:</b>
<b>Report of:</b> Corporate Director Community, Localities and Culture and Corporate Director Development and Renewal  Originating officer(s) Ann Sutcliffe Service Head Corporate Property and Capital Delivery		<b>Title:</b> <b>Part 2 -</b> Poplar Baths and Dame Colet House – tender process update  <b>Wards Affected:</b>  Blackwall & Cubitt Town Limehouse East India & Lansbury St Dunstan's & Stepney Green	

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

### **NOT FOR PUBLICATION**

Pursuant to regulation 21(1)(b) of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, Cabinet may by resolution exclude the public from a meeting during an item of business whenever it is likely, in view of the nature of the business to be transacted, that if members of the public were present during that item 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.

This report contains information falling within paragraph 3 of Schedule 12A to the 1972 Act, namely: “Information relating to the financial or business affairs of any particular person (including the authority holding that information)”. There is information in the report relating to the financial affairs of the Council. This information is not information falling within paragraph 8 (information required to be reported by companies) or paragraph 9 (development for which the Council may give itself planning permission) of Schedule 12A.

There is a public interest favouring public access to local authority meetings reflected in the provisions of Part VA of the 1972 Act. Public access promotes accountability, transparency and public involvement.

In this case, however, the report is concerned with one of the Council's major investment proposals which is at a critical stage. Publication of the details of any proposals could prejudice the Council achieving its obligation to obtain best consideration from the use of its resources and best value from the procurement process.. There is undoubtedly a public interest in the completion of this arrangement to be achieved in the most favourable way to the Council and Cabinet may take the view that this may best be achieved by consideration of the information the subject of the report in private. It is open, in the circumstances, for Cabinet to conclude that the public interest in maintaining the exemption on the information outweighs the public interest in disclosing it.

## **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.

## **3. REASONS FOR THE DECISIONS**

- 3.1 See Part 1 report.

## **4. ALTERNATIVE OPTIONS**

- 4.1 See Part 1 report.

## **5. BACKGROUND**

- 5.1 The evaluation of the 3 submissions were against the agreed criteria of price and quality for each submission, which was as follows: Poplar Baths Base and Variant Bid (2 returns) and Dame Colet House Base and Variant Bid (2 Returns).
- 5.2 The highest score from each of the submissions was then combined to provide an overall weighted score.
- 5.3 There are two bidders recommended to go forward who had the highest scores. At this stage it is not necessary to reproduce the scoring matrix as there will be further evaluations at the final bid stage.

## **6. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 6.1 The comments set out below need to be considered in conjunction with those set out in the Part 1 report "Poplar Baths and Dame Colet House – Tender Process Update."
- 6.2 An initial financial assessment has been undertaken on the outline base and variant development proposals submitted by the three bidders and those assessments are reflected in the evaluations and resultant recommendation to proceed competitive dialogue to final tenders with two of those three bidders. In conjunction with this, officers now require 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, as set out in the part 1 report referred to above. This means budget provision is identified for the net revenue costs that relate to the General Fund and (potential) Housing Revenue Account elements of both the capital development and associated running costs.
- 6.3 Provision in the capital programme and adoption of a capital estimate is also required because, irrespective of the financial model adopted, the notional cost of development will be reflected on the Council's balance sheet. It is therefore recommended to adopt a capital estimate not exceeding £40million (£30 from the General Fund and £10m in the HRA). This is a notional sum in order to facilitate flexibility during the next stage of the competitive dialogue process. It does not mean that the Council intends to commit £40 m of General Fund and HRA resources. Capital estimates will be adjusted accordingly when the final scheme is brought back to Cabinet for final sign-off.
- 6.4 The revenue budget provision recommended by officers equates to that provided through the appropriate mix of base and variant bids relating to the two bidders which provided the highest scores set out in paragraph 5.1 above. The table below sets out the annual financial provision officers recommend is required for each element of the project:

	<b>General Fund £000</b>	<b>HRA £000</b>
Poplar baths leisure facility development	1,348	
Poplar baths leisure provision contract	330	
Poplar baths housing net of rents receivable		400
Dame Colet youth facility development	240	
Dame Colet housing net of rents receivable		300

Revenue provision for these costs is available within the capital financing budgets agreed in February.

- 6.5 The variant scheme proposal of two of the bidders included the landlord functions of the housing, and consequent assets, be transferred to a Registered Provider. If this were the preferred way forward there would be no adverse financial impact on the Housing Revenue Account, and would not count as notional borrowing against the Council's statutory HRA debt cap.
- 6.6 An initial NPV assessment has been undertaken of the Leisure element of the scheme and results show a broadly comparative overall net cost over the 25 year period. This is because of the financial risk issues associated with operating the facility.
- 6.7 Cabinet has previously set aside resources to finance the preparation costs associated with this scheme. In March 2010 £517k of available S106 leisure contributions were approved and a further £500k of capital reserves approved in July 2011. It is anticipated that all costs associated with progressing the scheme to final sign-off by Cabinet can be contained within this overall sum.

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

- 7.1 The final stage of the Competitive Dialogue process is the most complex stage as it involves the testing of the proposals put forward by the remaining bidders. All of the issues relating to the final version of the contract have to be resolved before the close of dialogue as the Public Contracts Regulation 2006 only permit refining and clarification to take place after close of dialogue.
- 7.2 Each bidder's proposals are strictly commercially confidential and are particular to their bid so the Council cannot use bidder A's proposal but ask bidder B to provide it. Failure to adhere to this would open the Council to risk of challenge through the courts and could affect the award of the contract. Procedures have been put in place to ensure the commercial confidentiality is maintained throughout the process and this will be reflected in the final

report to be submitted for contract award when bidder's names and proposals will be anonymised.

## **8. ONE TOWER HAMLETS CONSIDERATIONS**

- 8.1 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.

## **9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

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

## **10. RISK MANAGEMENT IMPLICATIONS**

- 10.1 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
- 10.2 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. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 11.1 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.

## **12. EFFICIENCY STATEMENT**

- 12.1 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.

**13. APPENDICES**

N/A

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**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 <sup>th</sup> 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 4<sup>th</sup> 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 24<sup>th</sup> July 2012** on receipt of a written request.

The **deadline** for the receipt of any such written request is **5.00pm on Friday 13<sup>th</sup> 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 16<sup>th</sup> July 2012.**

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

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

### **MR L. RAHMAN (MAYOR) IN THE CHAIR**

#### **1. APOLOGIES FOR ABSENCE**

Apologies for absence were received on behalf of:

- Ms I. Cattermole, Acting Corporate Director Children Schools and Families, for whom Ms K. Bingham, Service Head Resources, Children Schools and Families, was deputising.
- Mr Stephen Halsey, Corporate Director Communities, Localities and Culture, for whom Mr Robin Beattie, Service Head Strategy and Resources and Olympic Impact, Communities, Localities and Culture, was deputising.

Apologies for lateness were received on behalf of:

- Councillor Oliur Rahman, Cabinet Member for Children’s Services.

**Noted.**

**Action by:**

**ASSISTANT CHIEF EXECUTIVE – LEGAL SERVICES (I. FREEMAN)**

Interim Committee Services Manager (Operational), Democratic Services, Chief Executive’s (A. Taylor)

## 2. DECLARATIONS OF INTEREST

**Councillor Oliur Rahman** declared a personal interest in Agenda item 6.1 “Ocean Estate” (CAB 014/123). The declaration of interest was made on the basis that the report contained recommendations relating to the Ocean Estate, partly located in St Dunstan’s and Stepney Green Ward, and Councillor Rahman was a Ward Councillor for that Ward.

**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.

**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.

**Noted.**

**Action by:**

**ASSISTANT CHIEF EXECUTIVE - LEGAL SERVICES (I. FREEMAN)**

Interim Committee Services Manager (Operational), Democratic Services, Chief Executive's (A. Taylor)

### **3. UNRESTRICTED MINUTES**

The unrestricted minutes of the ordinary meeting of the Cabinet held on 20<sup>th</sup> June 2012 were **Tabled** for information (Cabinet meeting – 4<sup>th</sup> July 2012).

### **4. PETITIONS**

No petitions were received.

### **5. OVERVIEW & SCRUTINY COMMITTEE**

#### **5.1 Chair's advice of Key Issues or Questions in relation to Unrestricted Business to be considered**

Nil items.

#### **5.2 Any Unrestricted Decisions "Called in" by the Overview & Scrutiny Committee**

Nil items.

### **6. A GREAT PLACE TO LIVE**

## 6.1 Ocean Estate (CAB 014/123)

**Councillor Oliur Rahman** declared a personal interest in Agenda item 6.1 "Ocean Estate" (CAB 014/123). The declaration of interest was made on the basis that the report contained recommendations relating to the Ocean Estate, partly located in St Dunstan's and Stepney Green Ward, and Councillor Rahman was a Ward Councillor for that Ward.

### Decision

1. That it be agreed that the Corporate Director Development and Renewal progress Option B:
  - To develop the option to redevelop the H blocks, noting this will mean permanent re-housing of council tenanted households and acquisition of the 37 leasehold interests; also noting that 2 years financing of approximately £5.05 million to meet the total buy out and re-housing costs estimated at £8.65 million will need to be resourced; and
2. That in the context of Option B having been agreed in Decision 1 above, it be agreed that tenants will need to be awarded decant status; and it also be agreed that they be given priority for the new local homes developed upon the Ocean estate should that be their preferred option;
3. That in the context of Option B having been agreed in Decision 1 above, it be agreed that an "Initial Demolition Notice" should be served upon tenanted households, which has the effect of allowing the Authority to refuse to dispose of affected properties under the Right to Buy;
4. That it be agreed that the Corporate Director of Development and Renewal, after consultation with the Assistant Chief Executive Legal Services, and the Mayor, be authorised to finalise arrangements to deliver the redevelopment of the H blocks site; and
5. Agree that the Corporate Director of Development and Renewal, after consultation with the Assistant Chief Executive (Legal Services), be authorised to execute all documents to make a compulsory purchase order of the properties and all interest, within the red line plan attached at Appendix 1 to the report (CAB 014/123), under S17 of the Housing Act 1985 or under Section 226(1) of the Town and Country Planning Act 1991 (as amended) and including new rights pursuant to S13 Local Government (Miscellaneous Provisions) 1976.

### **Action by:**

**CORPORATE DIRECTOR DEVELOPMENT AND RENEWAL (A. DALVI)**

Service Head Strategy Sustainability and Regeneration, Development and Renewal (J. Odunoye)  
Strategic Housing Manager, Strategy Sustainability and Regeneration, Development and Renewal (J. Coker)  
Technical Adviser to Senior Management, Development and Renewal (C. Worby)

## **6.2 Community Safety Plan 2012 - 2013: Reference from the Council meeting, 18th June 2012 (CAB 015/123)**

### **Decision**

1. That the proposed amendments to the draft Community Safety Plan 2012/13 which the extraordinary full Council, held on 18<sup>th</sup> June 2012, requested that the Mayor in Cabinet should consider and agree, be noted;
2. That the decision of the Mayor in Cabinet, made on 4<sup>th</sup> April 2012, in relation to draft Community Safety Plan 2012/13 be reaffirmed, and that full Council be recommended to adopt the Plan, as contained in Appendix A to the April Cabinet report (CAB 102/112); and
3. That it be agreed that the draft Community Safety Plan 2012/13 be submitted unrevised to full Council together with the Mayor's reasons for disagreement with the full Council's proposed amendments.

### **Action by:**

#### **ASSISTANT CHIEF EXECUTIVE – LEGAL SERVICES (I. FREEMAN)**

Service Head Democratic Services, Chief Executive's (J. Williams)

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

Service Head Safer Communities, Communities, Localities and Culture (A. Bamber)

Head of Community Safety Partnership Domestic Violence and Hate Crime, Communities, Localities and Culture (E. Fieran-Reed)

## **7. A PROSPEROUS COMMUNITY**

Nil items.

## **8. A SAFE AND COHESIVE COMMUNITY**

Nil items.

## **9. A HEALTHY AND SUPPORTIVE COMMUNITY**

Nil items.

**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)

**11. ANY OTHER UNRESTRICTED BUSINESS CONSIDERED TO BE URGENT**

Nil items.

**12. UNRESTRICTED REPORTS FOR INFORMATION**

Nil items.

**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 20<sup>th</sup> 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 20<sup>th</sup> 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**

#### **14. EXEMPT / CONFIDENTIAL MINUTES**

Minutes (Cabinet 20<sup>th</sup> June 2012) **Tabled** for information.

#### **15. OVERVIEW & SCRUTINY COMMITTEE**

##### **15.1 Chair's advice of Key Issues or Questions in relation to Exempt / Confidential Business to be considered.**

Nil items.

##### **15.2 Any Exempt / Confidential Decisions "Called in" by the Overview & Scrutiny Committee**

Nil items.

**16. A GREAT PLACE TO LIVE**

Nil items.

**17. A PROSPEROUS COMMUNITY**

Nil items.

**18. A SAFE AND COHESIVE COMMUNITY**

Nil items.

**19. A HEALTHY AND SUPPORTIVE COMMUNITY**

Nil items.

**20. ONE TOWER HAMLETS**

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

Recommendations agreed with amendment by Mayor.

**21. ANY OTHER EXEMPT/ CONFIDENTIAL BUSINESS CONSIDERED TO BE URGENT**

Nil items.

**22. EXEMPT / CONFIDENTIAL REPORTS FOR INFORMATION**

Nil items.

The meeting ended at 6.25 p.m.

**Isabella Freeman**  
**ASSISTANT CHIEF EXECUTIVE (Legal Services)**

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CABINET, 09/01/2013

SECTION **Section One & Two**

Aman Dalvi  
Corporate Director  
Development & Renewal,  
2<sup>nd</sup> Floor,  
Mulberry Place

**LONDON BOROUGH OF TOWER HAMLE**

**RECORD OF THE DECISIONS OF THE CAE**

**HELD AT 5.34 P.M. ON WEDNESDAY, 9 JANUA**

**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**

#### **1. APOLOGIES FOR ABSENCE**

Apologies for absence were received on behalf of:

- Councillor Rania Khan (Cabinet Member for Culture)
- Councillor Shahed Ali (Cabinet Member for Environment)

**Action by:**

**ASSISTANT CHIEF EXECUTIVE – LEGAL SERVICES (I. FREEMAN)**  
(Committee Services Manager, Democratic Services, Chief Executive's (M. Mannion))

#### **2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS**

No pecuniary interests were declared however Councillor Shafiqul Haque noted in relation to Item 6.1 that he was a leaseholder but that it was not a Pecuniary Interest and so he would take part in the discussion of that item.

#### **3. UNRESTRICTED MINUTES**

The unrestricted minutes of the ordinary meeting of the Cabinet held on 5 December 2012 were presented for information.

**4. PETITIONS**

No petitions were received.

**5. OVERVIEW & SCRUTINY COMMITTEE**

**5.1 Chair's advice of Key Issues or Questions in relation to Unrestricted Business to be considered**

**Decision**

Pre-decision scrutiny questions on Agenda Items 6.3 (Disposals Programme), 71 (Future Commissioning Arrangements and 8.1 (Bonner Primary School) were **Tabled** and noted.

**Reasons for the decision**

**Alternative options**

**5.2 Any Unrestricted Decisions "Called in" by the Overview & Scrutiny Committee**

Nil items.

**6. A GREAT PLACE TO LIVE**

**6.1 Payment Support Options to Leaseholders for Repayment of Decent Homes/Major Works Recharges**

**Decision**

1. To adopt the Payment options detailed at Appendix 1
2. To authorise the Corporate Director Development and Renewal in consultation with Assistant Chief Executive (Legal), to enter into all necessary documents to implement the decisions made in respect of this report.

**Action by:**

**CORPORATE DIRECTOR DEVELOPMENT AND RENEWAL (A. DALVI)**

(Service Head Housing, Strategy and Regeneration (J. Odunoye)

(Housing Partnerships Manager (J. Kiwanuka)

(Leasehold Manager (B. Whiteside)

**Reasons for the decision**

Offering a discount for early payment encourages leaseholders, where possible to settle their charges quickly. Non- resident and resident leaseholders will be given an opportunity to benefit from the discount for a timely payment. It is envisaged that this approach will lead to improved cash-flows and lower recovery costs. This outcome is particularly important as it would reduce the risk of a funding shortfall for the Decent Homes programme which is partly dependant on income from leaseholders.

The current policy, offers interest-free periods to all non-resident leaseholders, exposes the council to a potential risk of losing up to £7.9 million as evidenced in the financial impact assessment [Appendix 2](#). Restricting interest-free periods to those who need them mitigates the risk. The restriction is equitable and justifiable as the converse would amount to subsidising leaseholders' businesses.

Interest-free payments can legitimately be offered to resident leaseholders to assist in collecting the charges in the shortest time possible from leaseholders where they are unable to pay the full cost quickly. This can be done in the interest of the Council and the tax payers generally under the general power of competence to minimise the risk of debt recovery and possible write-off.

The current interest rate for extended payment options longer than the initial 3 years is 8.895%. The 8.895% interest was based on the cost to the council of borrowing several years ago which has changed significantly. The proposed new rate of 5.34% is 0.5% above the current cost of borrowing, the 0.5% designed to cover the management of the debt during the repayment period. Offering this rate of interest will be cost neutral to the Council but will assist those leaseholders facing financial difficulties.

**Alternative options**

**No early payment discount** – Not offering this option may result in income being received over a longer period with a consequence of increasing the likelihood for bad debt, and damaging relationship between Council & leaseholders, particularly through debt management and recovery actions. The early payment discounts are intended to help raise the much needed income quickly to fund the decent homes programme. This also offers non-resident leaseholders a financial incentive to pay the charges without delay.

**Continuing to offer every leaseholder deferred payment** - This option would put the council in the position where it was effectively subsidising businesses from the public purse which shouldn't be the case..

**Offering repayment terms over more than five years** – some Registered Providers offer loans in the form of a mortgage secured on the property. However, adopting this option would result in the council having a mortgage portfolio to manage, a position it is currently trying to run down. The option also has the effect of the Council building long term indebtedness to

leaseholders especially as further works may well be undertaken before the loan for the decent homes works is repaid.

**Longer repayment periods** - Extending repayment over long periods whilst may be seen as being beneficial to leaseholders the converse may be true. Particularly, as it is likely that over a 10 year repayment period the landlord will have to undertake further work either through additional repairs or planned maintenance programmes which will result in further bills for the leaseholder. Effectively, this approach will have the implication of building indebtedness rather than assisting leaseholders in the long run.

**Provision of discretionary loans** – Some Local Authorities (LAs) and other Registered Providers (RPs) offer long term loans through mortgages at local authority mortgage rates and subject to equity in the property. However, this option would be challenging to adopt because to act as a lender on such a scale, the Council would have to fund the loans from its capital resources. The resultant mortgage portfolio would also need managing with future resource implications for managing such a service. Consequently, the Council would need to exercise extreme care not to contravene the Financial Services Authority regulations on financial advice and may have to apply for a Consumer Credit Licence.

## 6.2 Procurement of Decent Homes Contractors and Consultants Years 3 4 and 5

### Decision

1. To authorise the Mayor to award the DH works contracts to the contractors and consultants listed in 2.1.1 – 2.1.3 once the results of the leaseholder consultation have been considered,
  - 1.1 Lot 1 Contractors (**Internal Works only**)
    - Chigwell (Shepherds Bush) Ltd
    - RR Richardson LTD
  - 1.2 Lot 2 Contractors (**Internal and External Works**)
    - Apollo Property Services Group LTD
    - Axis Europe PLC and
    - Breyer Group PLC
  - 1.3 Lot 2 Consultants (**Internal and External Works**) **Framework of 6 consultants with the first 3 administering the 2013/14 DH works programme annual mini competition thereafter:**
    - Mace Group
    - John Rowan and Partners LLP
    - Pellings LLP
    - Frankham Consultancy Group Limited
    - Bailey Garner LLP
    - Potter Raper Partnerships
2. To authorise the Assistant Chief Executive (Legal), to enter into all necessary documents to implement the decisions made in respect of this report.

3. To adopt an initial capital estimate of £71 million in respect of the 2013/14 and 2014/15 DH Programme, profiled as 2013/14: £25million and 2014/15: £46 million, in order to enter into the contracts. The details of the programme of works will be subject to a separate report.

**Action by:****CORPORATE DIRECTOR DEVELOPMENT AND RENEWAL (A. DALVI)**

(Service Head Housing, Strategy and Regeneration (J. Odunoye)

(Housing Partnerships Manager (J. Kiwanuka)

(Decent Homes Procurement Project Manager THH (J. Mack)

**Reasons for the decision**

Cabinet in June 2011 agreed, for the longer term planning, to secure an OJEU procured and leasehold compliant framework to deliver the capital investment need in the future.

In July 2012 the Council entered into contract with the GLA for the DH Backlog funding. Under the Agreement the Council is contracted to deliver pre-agreed annual targets of DH in order to access the DH Backlog funding. The DH Contractor and Consultant procurement is critical to delivering the DH targets and securing the GLA funding. Therefore, it is vital that contractors are appointed to allow adequate time for procured resources to bed in and mobilise for a start on site at the beginning of the next Financial Year.

Additionally, the Council aims to ensure that its localism agenda is enshrined in its contracting processes by according apprenticeships and utilising local contractors and labour with view to stimulate the local economy. The OJEU procured Contractors have offered to contractually agree to deliver a raft of local benefits including apprenticeships, local labour and use local contractors, which will help stimulate the local economy, and allow local people to acquire relevant skills to enter employment.

**Alternative options**

Cabinet in June and September 2011 considered and agreed the method of procuring capital investment for the delivery of the DH Programme in 2013-16. It was agreed by Cabinet that for the longer term planning, to secure an OJEU procured and leasehold compliant framework to deliver the capital investment need in the future. The procurement method and process adopted including the results of the procurement exercise detailed within this report are an implementation of the fore mentioned Cabinet decisions.

**6.3 Disposals Programme****Decision**

1. To note the contents of this report:
2. To agree to the disposal of part of Southern Grove;

3. To authorise officers to secure a planning brief for site at part of Southern Grove;
4. Following consultation with the Mayor and Lead Member for Resources, authorise the Director of Development and Renewal, in conjunction with the Assistant Chief Executive Legal Services, to accept the best tender return for the site on conclusion of the marketing exercise; and ,
5. To authorise officers to appoint external agents to support the marketing of the site.

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

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

**Reasons for the decision**

It is important at a time of reducing funding and budgets in the public sector, to ensure that efficiencies are driven through the running and/or disposals of our assets to reduce revenue costs.

To continue to review and rationalise council assets, to reduce the Councils operational portfolio to the minimum.

That the site disposal will generate for the council significant capital receipts, for which can be directed to the Mayor's priorities on housing, education and infrastructure projects.

The development of the site will also, alongside the generation of a capital receipt, will bring forward social and affordable housing along with the potential for other community facilities.

**Alternative options**

The council has considered the option of developing the site directly, but the funding to deliver this as an option is not available.

**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 6<sup>th</sup> 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 4<sup>th</sup> 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.

## **7. A PROSPEROUS COMMUNITY**

### **7.1 Future Commissioning Arrangements for Public Health Services**

#### **Decision**

- 1 To approve the commencement of competitive tender processes for the following contracts:
  - (See section 1a of the spread sheet appended to the report); (Please note contracts will not be awarded if insufficient funding is allocated by the DoH and the matter will be brought back to the Mayor)
2. To approve the extension, for up to 12 months, and subsequent procurement during 2013/14, of the following contracts:
  - (See section 1b of the spread sheet appended to the report)
3. To approve the procurement, during 2013/14 of the following contracts scheduled to expire on 31 March 2014:
  - (See section 1c of the spread sheet appended to the report);

4. To note the contracts currently held by the NHS where the services are already provided by the Council. These will become directly provided services from 01 April 2013, and therefore no further commissioning is required:
  - (See section 1d of the spread sheet appended to the report);
5. To note the contracts which the NHS will not maintain beyond 31 March 2013 and will be decommissioned by the PCT. Therefore no commissioning activity is required by the Council:
  - (See section 1e of the spread sheet appended to the report);
6. To approve the transfer of responsibility to the Council for the elements of the current contracts with Barts Health NHS Trust and the East London Foundation Trust (ELFT) which pertain to services delivered to residents of Tower Hamlets and note that the Barts contract expires on 31 March 2014 and the ELFT contract on 30<sup>th</sup> June 2014. The services currently provided to Tower Hamlets residents under these contracts are:
  - (See section 2a of the spread sheet appended to the report);
7. To note the intention to work with the Tower Hamlets Clinical Commissioning Group, neighbouring Councils and their respective Clinical Commissioning Groups who have an interest in the contracts with the Barts Health NHS Trust during 2013/14 to determine longer term commissioning arrangements which balance local flexibility and priorities with a prudent approach to risk sharing;
8. To delegate authority to the Corporate Director responsible for the functions being exercised in the contracts in accordance with the Council's constitution in consultation with the Cabinet Member for Health and Wellbeing and Assistant Chief Executive (Legal Services), and subject to final approval by the Mayor, to enter into various agreements to give effect to the recommendations detailed above and also to enter an agreement with the Tower Hamlets Clinical Commissioning Group for the management of contractual arrangements with GPs and Pharmacists currently delivered under NHS Local Enhanced Services arrangements or direct employment contracts with the NHS, for the period 1 April 2013 to 31 March 2014. This is subject always to establishing adequate funding and satisfactory terms that protect the Council and deliver local objectives and or other appropriate providers. In particular the services currently provided to Tower Hamlets residents under these Local Enhanced Services arrangements are:
  - (See sections 2c and 2e of the spread sheet appended to the report);
9. To approve the proposed joint commissioning arrangements for the commissioning of sexual health services with the Commissioning Support Unit (who will commission health services on behalf of the Tower Hamlets Clinical Commissioning Group) acting as lead commissioner. The services currently provided to Tower Hamlets residents that fall within the remit of the proposed joint commissioning arrangements are:
  - (See sections 2b and 2d of the spread sheet appended to the report)
10. To delegate authority to the Corporate Director responsible for the functions being exercised in the contracts in consultation with the Cabinet Member for Health and Wellbeing and other relevant Lead Member(s) and chief officer(s), and the Assistant Chief Executive (Legal Services), and subject to final approval by the Mayor, to

approve the award of contracts to the most economically advantageous tenderers following the completion of the procurement processes referred to in recommendations 2, 3 and 4 above subject always to the establishment of appropriate terms and appropriate measures to safeguard local priorities.

11. To delegate authority to the Corporate Director responsible for the functions being exercised in the contracts to undertake and to enter into all appropriate arrangements relating to Equality Impact Assessments and consideration of the Public Sector Equality Duty in accordance with the Equality Act 2010 prior to any decisions being taken on commissioning or de-commissioning of services .

**Action by:**

**INTERIM CORPORATE DIRECTOR CHILDREN, SCHOOLS AND FAMILIES  
(I. CATTERMOLE)**

(Service Head: Commissioning and Strategy (D. Cohen)

**Reasons for the decision**

To ensure continuity of provision for public health services delivered under contracts which the Council will become responsible for, as a consequence of the enactment of the Health and Social Care Act 2012, from 01 April 2013 and which contribute to maintaining and improving the health of the population of Tower Hamlets.

The Council's Constitution, and the scheme of delegation to officers contained therein, do not currently incorporate the public health functions that will transfer to the Council from 01 April 2013. Up until the transfer date it is necessary, therefore, to seek Cabinet approval for all of the contracts relating to the discharge of those functions irrespective of value.

There are a number of drug / alcohol contracts (set out in section 1.b of the appended spread sheet) which are currently scheduled to expire on 31 March 2013. In order to provide sufficient time to plan a redesign of the treatment pathway for drug and alcohol services, to revise service specifications to reflect the planned redesign, and to undertake competitive procurement processes existing services will need to be maintained for a period of up to twelve months from the current expiry date.

**Alternative options**

The Mayor in Cabinet could require officers to consider alternative approaches to, or timescales for, the procurement plans set out in this report. This option is not recommended as it would lead to delays in the award of new contracts that may lead to discontinuity of service delivery.

The Mayor in Cabinet could instruct that specific contracts not be reproced. It should be noted, however, that officers have worked closely with public health colleagues, over an extended period of time, to determine the benefits for health and wellbeing in the population of the borough of each of the

services that it is recommended here be reprocured. For this reason this alternative option is not recommended.

The Mayor in Cabinet could instruct that specific contracts, and / or contracts above a particular value are brought back to Cabinet for the contract award decision to be made, in preference to delegating authority to award those contracts to officers. However care needs to be taken to ensure delay in award does not impact on service delivery

The Mayor in Cabinet could choose not to extend the contracts managed by the Drug and Alcohol Action Team and instruct that notices of termination be issued to existing providers. This alternative option is not recommended as it would leave a particularly vulnerable group of residents of the borough at risk of significant deterioration in their health and wellbeing, and of increasing levels of crime.

## **8. A SAFE AND COHESIVE COMMUNITY**

### **8.1 Bonner Primary School - Proposed Extension**

#### **Decision**

1. To note the contents of this report;
2. To agree that statutory proposals should be published for the enlargement of Bonner Primary School to admit 120 pupils in each year from September 2013.
3. To authorise the Acting Corporate Director Children Schools and Families, after consulting with the Mayor, Cabinet Member for Children's Services and the Assistant Chief Executive (Legal Services), to negotiate and agree such terms (including, in either case, the payment of appropriate financial compensation), as will enable the proposed extension to Bonner Primary School either to share the PDC with the University until 2018, or for the University to vacate those parts of the PDC which it occupies and move into alternative premises.
4. To authorise the Acting Corporate Director Children Schools and Families, after consulting with the Mayor, Cabinet Member for Children's Services and the Assistant Chief Executive (Legal Services) to negotiate and agree with the University such terms for the University's continued occupation of the PDC as will enable the University to continue to enjoy its current use of the PDC in a manner which is consonant with the University's reasonable expectations including (without prejudice to the generality of the foregoing), teaching both undergraduate and post-graduate students in an environment not inimical to academic study.

5. To authorise the Acting Corporate Director Children Schools and Families after consulting with the Mayor, Cabinet Member for Children's Services and the Assistant Chief Executive (Legal Services) to take such steps as are necessary in the planning and design process to ensure that the Council is enabled fully to comply with its legal obligations relating to the safeguarding of children.

**Action by:**

**INTERIM CORPORATE DIRECTOR CHILDREN, SCHOOLS AND FAMILIES  
(I. CATTERMOLE)**

(Head of Building Development (P. Watson))

**Reasons for the decision**

Proposals have been developed to expand Bonner Primary School to assist in the LA's programme to provide primary school places to meet growing local need. Initial consultation on the proposals has been held. Cabinet is asked to consider the proposed expansion, the response to the initial consultation and the recommendation that statutory proposals for the expansion should be published. The publication of statutory proposals is required in order to implement this change to the school.

Although decisions were taken on the PDC in September of this year, by the Mayor in Cabinet, the University has since issued court proceedings against the Council, seeking judicial review of those decisions and alleging that they were invalid.

Without making any concessions as to whether there is any basis for the legal proceedings, it is considered sensible that the decisions should be considered afresh and that explicit consideration should be given to the University's concerns.

**Alternative options**

In order to meet the rising need for school places, the Council has implemented a number of school expansion projects and continues to develop further schemes to meet need. Longer term development plans for the borough include proposals for new primary schools. However, further expansion proposals are needed to keep pace with the need, so taking no action would leave the Council at risk of being unable to discharge its statutory functions. The options for expansion have been considered having regard to the factors set out in paragraphs 6.6 to 6.24 of the report.

**9. A HEALTHY AND SUPPORTIVE COMMUNITY**

**9.1 Violence Against Women and Girls Plan**

**Decision**

1. To agree the Violence Against Women and Girls Plan as set out in Appendix 1.
2. To consider the equality analysis in Appendix 2.
3. To note that the Violence Against Women and Girls Plan has been prepared with the Council's major partners to be the appropriate detailed service and partnership framework for addressing all forms of violence against women and girls within the Borough.

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

(Head of Community Safety (E. Fieran-Reed)  
(Domestic Violence & Hate Crime Manager (S Narayan)

**Reasons for the decision**

Addressing violence against women & girls is already recognised as a priority area regionally, nationally & internationally. The UN declaration on the Elimination of Violence Against Women was adopted by the General Assembly in 1993. This was followed by a resolution of intensification of efforts to eliminate all forms of violence against women in 2009.

In 2010, the Mayor of London published 'The Way Forward', a London-wide plan aimed to end all forms of violence against women in the capital. In 2011 the coalition government published its 'Call to end violence against women & girls' which outlines the responsibility of local authorities to co-ordinate their response to VAWG issues.

The Mayor of Tower Hamlets has been proactive in supporting work in this area and it forms part of the Mayors priority to drive down violent crime in the Borough. Tower Hamlets VAWG Plan takes a pro-active partnership approach to addressing this problem and makes a strong statement about the Council's commitment to safeguarding adults & children & pursuing gender equality.

**Alternative options**

*Do not have a VAWG Plan.* This would result in fragmented service planning between partners, duplication, lack of focus and inefficient use of scarce resources by all of the key partners engaged in reducing violence against women and girls.

*Do not agree this plan but ask for a different plan with different priorities.* This plan has been prepared in close consultation with all of the Council's major partners engaged in reducing violence against women and girls. As such it represents a shared platform of joint priorities that best reflect the way to maximise cross sector and organisation impact. The Plan has been based on established Council priorities to date and such a decision would cause significant delay to the process of joint planning and the achievement of more effective outputs for the Women and Girls at risk in the Borough.

## 10. ONE TOWER HAMLETS

### 10.1 Housing Revenue Account First Budget and Rent Setting Report - 2013/14

#### Decision

1. To agree that the Authority will continue to follow rent restructuring guidelines, and that therefore, the average 2013/14 weekly rent increase for tenanted Council dwellings will be £4.39 and the average weekly tenanted service charge increase will be £0.25 from the first rent week in April 2013.
2. To note that the HRA budget will be presented to Cabinet for approval in February 2013.

#### Action by:

#### **CORPORATE DIRECTOR DEVELOPMENT AND RENEWAL (A. DALVI)**

(Service Head - Resources (C. Holme)

(Finance Manager (P. Leeson)

(Senior Accountant, D&R (K. Ball)

#### Reasons for the decision

The Council must prepare proposals in January and February each year relating to income from rents and other charges, and expenditure in relation to management and maintenance of its housing stock. A decision is required with regard to rents and service charges in January in order that statutory notice can be given to tenants prior to 1st April implementation.

#### Alternative options

The Council is not obliged to follow national rent policy, but any rent increase below that assumed in the business plan would put at risk the Council's ability to fund the future capital programme. Mayor and Cabinet can determine to increase rents either above or below that recommended; the financial consequences of either decision are set out in section 9 of this report.

### 10.2 Council Tax Base Report

#### Decision

1. To consider and agree that:
  - in relation to second homes, furnished empty properties, properties undergoing refurbishment, and new properties, the Council can charge up to 100% of the full Council Tax payable;

- for properties empty for more than 2 years, a levy of 1.5 times the full Council Tax payable be charged; and
  - agree the policy on “Section 13a Council Tax Reductions”
2. To approve, in accordance with the Local Authorities (Calculation of Council Tax Base) Regulations 1992, that the amount calculated by the London Borough of Tower Hamlets as its Council Tax Base for the year 2013/14 shall be 71,531 including the technical changes.

**Action by:****SECTION 151 OFFICER, SERVICE HEAD – FINANCIAL SERVICES, RISK & ACCOUNTABILITY (A. FINCH)**

(Head of Revenue Services (R. Jones))

**Reasons for the decision**

To provide a simplified Council Tax policy and promote occupation of empty properties

The scheme for calculation of council tax established under the Local Government Finance Act 1992 requires local authorities to agree their Council Tax Base and to notify it to the preceptors (GLA) by 31st January 2013.

If the tax base is not agreed and notified to the Preceptor by 31st January 2013, this may prejudice the calculation of Council Tax for 2013/14.

**Alternative options**

The Council is obliged to consider the Government’s technical reforms and agree its response to them.

The recommendations contained within this report are made in line with the statutory requirements outlined in sections 3.2 and 3.3 of this report; and the alternative options in setting its Council Tax Base.

**10.3 General Fund Capital and Revenue Budgets and Medium Term Financial Plan 2013/14-2015-16****Decision**

1. To agree to propose the items listed below for public consultation and consideration by the Overview & Scrutiny Committee in accordance with the Budget and Policy Framework (Section 15). A further report will then be submitted to the next Cabinet meeting in February detailing the results of consultations and inviting the Cabinet to recommend a budget Requirement and Council Tax for 2013-14 to Full Council.

**a. Funding**

The funding available for 2013-14 and the indications and forecasts for future years (section 8) and note the introduction of the new local government funding system (Appendix 2).

**b. Base Budget 2013-14**

The Base Budget for 2013-14 as £293.865m as detailed in Appendix 2.

**c. Growth and Inflation**

The risks identified from potential inflation and committed growth arising in 2013-14 and future years and as set out in Section 9 and in Appendix 3.

**d. General Fund Revenue Budget and Medium Term Financial Plan 2013-14 to 2015-16**

The initial budget proposal and Council Tax for 2013-14 together with the Medium Term Financial Plan set out in Appendix 1 and the savings targets arising.

**e. Savings**

Savings items proposed to be included in budgets for 2013-14 and future years set out in Section 10 and in Appendices 4 and 5.

**f. Capital Programme**

The capital programme to 2014-15, including the proposed revisions to the current programme as set out in section 14 and detailed in Appendix 9.

**g. Dedicated Schools Grant**

The position with regard to Dedicated Schools Grant as set out in section 12 and Appendix 7.

**h. Housing Revenue Account**

The position with regard to the Housing Revenue Account as set out in section 13 and Appendix 8.

**i. Financial Risks: Reserves and Contingencies**

Advice on strategic budget risks and opportunities as set out in section 11 and Appendices 6.1, 6.2 and 6.3.

**j. Reserves and Balances**

The position in relation to reserves as set out in the report and further detailed in Appendices 6.1 and 6.3, and officers' advice on the strategy for general reserves at 8.40.

**Action by:**

**SECTION 151 OFFICER, SERVICE HEAD – FINANCIAL SERVICES, RISK & ACCOUNTABILITY (A. FINCH)**

**Reasons for the decision**

The Council is under an obligation to set a balanced budget for the forthcoming year and to set a Council Tax for the next financial year by 7th March 2013. The setting of the budget is a decision reserved for Council. The Council's Budget and Policy Framework requires that a draft budget is issued for consultation with the Overview & Scrutiny Committee at this meeting to allow for due process.

The announcements that have been made about Government funding for the authority require a robust and timely response to enable a balanced budget to be set.

**Alternative options**

The authority is bound to respond to the cuts to Government funding of local authorities and to set an affordable Council Tax and a balanced budget, while meeting its duties to provide local services. This limits the options available to Members. Nevertheless, the authority can determine its priorities in terms of the services it seeks to preserve and protect where possible, and to a limited extent the services it aims to improve further, during the period of cuts.

#### **10.4 London Borough of Tower Hamlets Council Tax Support Scheme**

**Decision**

1. To agree the proposed Council Tax Support scheme as the replacement to Council Tax Benefit from April 2013. (The draft scheme is published on the Council's website)
2. To note the results of the public consultation on the Council Tax Support scheme.
3. To note that the scheme will need to be agreed by full Council.
4. To note that adoption of the scheme will enable the council to apply for part of a £100m DCLG transition grant.

**Action by:**

**SECTION 151 OFFICER, SERVICE HEAD – FINANCIAL SERVICES, RISK & ACCOUNTABILITY (A. FINCH)**

(Claire Symonds – (Service Head Customer Access & ICT)  
(Steve Hill – (Head of Benefits Services)

### **Reasons for the decision**

The Council is obliged to agree a local Council Tax Support scheme to replace the national Council Tax Benefit Scheme which will be abolished in April 2013. Since Cabinet's decision on the 25<sup>th</sup> July, the Council Tax Support scheme for Tower Hamlets has been designed and developed, and consultation in accordance with the requirements currently indicated in the Local Government Finance Bill 2010-2012 has taken place. This report updates Members on the progress made and sets out the decisions that are now required.

The local Council Tax Support scheme needs to be submitted to DCLG by 31st January 2013.

### **Alternative options**

The Council is required by law to put in place a council tax reduction scheme by 31 January 2013. If it does not do so, then the Government's default scheme will apply in Tower Hamlets. The default scheme is set out in the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 and is publicly available.

The Council has limited discretion as to the contents of its council tax reduction scheme, as the scheme must contain the matters required by the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012. The chief area of discretion relates to non-pensioners, in respect of whom a means-based approach is proposed as set out in the report.

It is also proposed, for reasons set out in the report, that the scheme is framed so as to permit the Council not to pass on the Government's 10% reduction in funding.

An alternative approach would be possible, but may require further consultation and analysis.

## **10.5 Contracts Forward Plan Q3**

### **Decision**

1. To consider the contract summary at Appendix 1, and identify those contracts about which specific reports – relating either to contracting strategy or to contract award – should be brought before Cabinet prior to contract award by the appropriate Chief Officer for the service area;

2. To authorise the relevant Corporate Director who holds the budget for the service area to award the contract or contracts following consultation with the Assistant Chief Executive (Legal Services) on the relevant terms and conditions of contract with the exception of the Domiciliary Care Framework Contract (AHWB 4396) which was deferred; and
3. To authorise the Assistant Chief Executive (Legal Services) to execute all necessary contract documents in respect of the awards of contracts referred to at recommendation 2 above.

**Reasons for the decision**

The Council's Procurement Procedures require submission of a quarterly forward plan of contracts for Cabinet consideration, and it is a requirement of the Constitution that "The contracting strategy and/or award of any contract for goods or services with an estimated value exceeding £250,000, and any contract for capital works with an estimated value exceeding £5,000,000, shall be approved by the Cabinet in accordance with the Procurement Procedures". This report fulfils these requirements for contracts to be let during the period Q4 of the Financial Year and beyond.

**Alternative options**

As bringing a consolidated report on contracting activity is considered the most efficient way of meeting the requirement in the Constitution, whilst providing full visibility of contracting activity, no alternative proposals are being made.

**10.6 Procurement Plan****Decision**

1. To note the Procurement Policy Priorities.

**Reasons for the decision**

The way the Council sets about procuring works, goods and services is important to achieving compliance with legislation, delivering and demonstrating value for money and delivering its policy priorities.

**Alternative options**

The approach of public sector organisations to procurement is primarily governed by UK and EU law and the need to find substantial savings over the forthcoming period. Within that, the authority can set its own priorities in relation to the lawful objectives it sets out to achieve through its procurement processes.

**11. ANY OTHER UNRESTRICTED BUSINESS CONSIDERED TO BE URGENT****12. UNRESTRICTED REPORTS FOR INFORMATION****12.1 Exercise of Corporate Directors' Discretions****Decision**

1. To note the exercise of Corporate Directors' discretions as set out in Appendix 1.

**Reasons for the decision**

Financial Regulations requires that regular reports be submitted to Council/Committee setting out financial decisions taken under Financial Regulation B8.

The regular reporting of Corporate Director's Discretions should assist in ensuring that Members are able to scrutinise officer decisions.

**Alternative options**

The Council is bound by its Financial Regulations (which have been approved by Council) to report to Council/Committee setting out financial decisions taken under Financial Regulation B8.

If the Council were to deviate from those requirements, there would need to be a good reason for doing so. It is not considered that there is any such reason, having regard to the need to ensure that Members are kept informed about decisions made under the delegated authority threshold and to ensure that these activities are in accordance with Financial Regulations.

**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.

#### **14. EXEMPT / CONFIDENTIAL MINUTES**

Nil items.

#### **15. OVERVIEW & SCRUTINY COMMITTEE**

##### **15.1 Chair's advice of Key Issues or Questions in relation to Exempt / Confidential Business to be considered.**

Nil items.

##### **15.2 Any Exempt / Confidential Decisions "Called in" by the Overview & Scrutiny Committee**

Nil items.

#### **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))

**17. A PROSPEROUS COMMUNITY**

Nil items.

**18. A SAFE AND COHESIVE COMMUNITY**

Nil items.

**19. A HEALTHY AND SUPPORTIVE COMMUNITY**

Nil items.

**20. ONE TOWER HAMLETS**

Nil items.

**21. ANY OTHER EXEMPT/ CONFIDENTIAL BUSINESS CONSIDERED TO BE URGENT**

Nil items.

**22. EXEMPT / CONFIDENTIAL REPORTS FOR INFORMATION**

Nil items.

The meeting ended at 7.25 p.m.

**Isabella Freeman**  
**ASSISTANT CHIEF EXECUTIVE (Legal Services)**

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

<b>Lead Member</b>	Cllr Rabina Khan ( Lead Member – Housing and Development) Cllr Choudhury (Lead Member – Resources)
<b>Community Plan Theme</b>	Building one Tower Hamlets
<b>Strategic Priority</b>	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 6<sup>th</sup> 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 4<sup>th</sup> 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 6<sup>th</sup> 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 8<sup>th</sup> October 2011 via the London Tenders Portal. Further to the Cabinet decision of 4<sup>th</sup> 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 17<sup>th</sup> July and 12<sup>th</sup> 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 13<sup>th</sup> November 2012 and final tenders were submitted on 30<sup>th</sup> 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 4<sup>th</sup> 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.

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**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<sup>th</sup> March 2010

Ann Sutcliffe

Service Head, Strategic Property &  
Capital Delivery

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CABINET, 09/01/2013

SECTION

**Section One & Two**

Aman Dalvi

Corporate Director

Development & Renewal,

2<sup>nd</sup> Floor,

Mulberry Place

**LONDON BOROUGH OF TOWER HAMLE**

**RECORD OF THE DECISIONS OF THE CAE**

**HELD AT 5.34 P.M. ON WEDNESDAY, 9 JANUA**

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

**Members Present:**

Mayor Lutfur Rahman

Councillor Ohid Ahmed (Deputy Mayor)

Councillor Rofique U Ahmed

Councillor Abdul Asad

Councillor Alibor Choudhury

Councillor Shafiqul Haque

Councillor Rabina Khan

Councillor Oliur Rahman

(Deputy Mayor)

(Cabinet Member for Regeneration)

(Cabinet Member for Health and Wellbeing)

(Cabinet Member for Resources)

(Cabinet Member for Jobs and Skills)

(Cabinet Member for Housing)

(Cabinet Member for Children's Services)

**Other Councillors Present:**

Councillor Kabir Ahmed

Councillor Stephanie Eaton

Councillor Marc Francis

Councillor Carlo Gibbs

Councillor Peter Golds

Councillor Md. Maium Miah

Councillor Ann Jackson

Councillor Gulam Robbani

(Executive Advisor to the Mayor and Cabinet)

(Leader of the Conservative Group)

(Advisor to the Mayor and Cabinet on Third Sector and Community Engagement)

(Chair, Overview & Scrutiny Committee)

**Officers Present:**

Stephen Adams

Katherine Ball

Sarah Barr

Robin Beattie

Anne Canning

– (Finance and Resources Manager, Communities Localities & Culture)

– (Senior Accountant, Development & Renewal)

– (Senior Strategy Policy and Performance Officer, One Tower Hamlets, Chief Executive's)

– (Service Head, Strategy & Resources & Olympic Impact, Communities Localities & Culture)

– (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**

#### **1. APOLOGIES FOR ABSENCE**

Apologies for absence were received on behalf of:

- Councillor Rania Khan (Cabinet Member for Culture)
- Councillor Shahed Ali (Cabinet Member for Environment)

**Action by:**

**ASSISTANT CHIEF EXECUTIVE – LEGAL SERVICES (I. FREEMAN)**  
(Committee Services Manager, Democratic Services, Chief Executive's (M. Mannion))

#### **2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS**

No pecuniary interests were declared however Councillor Shafiqul Haque noted in relation to Item 6.1 that he was a leaseholder but that it was not a Pecuniary Interest and so he would take part in the discussion of that item.

#### **3. UNRESTRICTED MINUTES**

The unrestricted minutes of the ordinary meeting of the Cabinet held on 5 December 2012 were presented for information.

**4. PETITIONS**

No petitions were received.

**5. OVERVIEW & SCRUTINY COMMITTEE**

**5.1 Chair's advice of Key Issues or Questions in relation to Unrestricted Business to be considered**

**Decision**

Pre-decision scrutiny questions on Agenda Items 6.3 (Disposals Programme), 71 (Future Commissioning Arrangements and 8.1 (Bonner Primary School) were **Tabled** and noted.

**Reasons for the decision**

**Alternative options**

**5.2 Any Unrestricted Decisions "Called in" by the Overview & Scrutiny Committee**

Nil items.

**6. A GREAT PLACE TO LIVE**

**6.1 Payment Support Options to Leaseholders for Repayment of Decent Homes/Major Works Recharges**

**Decision**

1. To adopt the Payment options detailed at Appendix 1
2. To authorise the Corporate Director Development and Renewal in consultation with Assistant Chief Executive (Legal), to enter into all necessary documents to implement the decisions made in respect of this report.

**Action by:**

**CORPORATE DIRECTOR DEVELOPMENT AND RENEWAL (A. DALVI)**

(Service Head Housing, Strategy and Regeneration (J. Odunoye)

(Housing Partnerships Manager (J. Kiwanuka)

(Leasehold Manager (B. Whiteside)

**Reasons for the decision**

Offering a discount for early payment encourages leaseholders, where possible to settle their charges quickly. Non- resident and resident leaseholders will be given an opportunity to benefit from the discount for a timely payment. It is envisaged that this approach will lead to improved cash-flows and lower recovery costs. This outcome is particularly important as it would reduce the risk of a funding shortfall for the Decent Homes programme which is partly dependant on income from leaseholders.

The current policy, offers interest-free periods to all non-resident leaseholders, exposes the council to a potential risk of losing up to £7.9 million as evidenced in the financial impact assessment [Appendix 2](#). Restricting interest-free periods to those who need them mitigates the risk. The restriction is equitable and justifiable as the converse would amount to subsidising leaseholders' businesses.

Interest-free payments can legitimately be offered to resident leaseholders to assist in collecting the charges in the shortest time possible from leaseholders where they are unable to pay the full cost quickly. This can be done in the interest of the Council and the tax payers generally under the general power of competence to minimise the risk of debt recovery and possible write-off.

The current interest rate for extended payment options longer than the initial 3 years is 8.895%. The 8.895% interest was based on the cost to the council of borrowing several years ago which has changed significantly. The proposed new rate of 5.34% is 0.5% above the current cost of borrowing, the 0.5% designed to cover the management of the debt during the repayment period. Offering this rate of interest will be cost neutral to the Council but will assist those leaseholders facing financial difficulties.

**Alternative options**

**No early payment discount** – Not offering this option may result in income being received over a longer period with a consequence of increasing the likelihood for bad debt, and damaging relationship between Council & leaseholders, particularly through debt management and recovery actions. The early payment discounts are intended to help raise the much needed income quickly to fund the decent homes programme. This also offers non-resident leaseholders a financial incentive to pay the charges without delay.

**Continuing to offer every leaseholder deferred payment** - This option would put the council in the position where it was effectively subsidising businesses from the public purse which shouldn't be the case..

**Offering repayment terms over more than five years** – some Registered Providers offer loans in the form of a mortgage secured on the property. However, adopting this option would result in the council having a mortgage portfolio to manage, a position it is currently trying to run down. The option also has the effect of the Council building long term indebtedness to

leaseholders especially as further works may well be undertaken before the loan for the decent homes works is repaid.

**Longer repayment periods** - Extending repayment over long periods whilst may be seen as being beneficial to leaseholders the converse may be true. Particularly, as it is likely that over a 10 year repayment period the landlord will have to undertake further work either through additional repairs or planned maintenance programmes which will result in further bills for the leaseholder. Effectively, this approach will have the implication of building indebtedness rather than assisting leaseholders in the long run.

**Provision of discretionary loans** – Some Local Authorities (LAs) and other Registered Providers (RPs) offer long term loans through mortgages at local authority mortgage rates and subject to equity in the property. However, this option would be challenging to adopt because to act as a lender on such a scale, the Council would have to fund the loans from its capital resources. The resultant mortgage portfolio would also need managing with future resource implications for managing such a service. Consequently, the Council would need to exercise extreme care not to contravene the Financial Services Authority regulations on financial advice and may have to apply for a Consumer Credit Licence.

## 6.2 Procurement of Decent Homes Contractors and Consultants Years 3 4 and 5

### Decision

1. To authorise the Mayor to award the DH works contracts to the contractors and consultants listed in 2.1.1 – 2.1.3 once the results of the leaseholder consultation have been considered,
  - 1.1 Lot 1 Contractors (**Internal Works only**)
    - Chigwell (Shepherds Bush) Ltd
    - RR Richardson LTD
  - 1.2 Lot 2 Contractors (**Internal and External Works**)
    - Apollo Property Services Group LTD
    - Axis Europe PLC and
    - Breyer Group PLC
  - 1.3 Lot 2 Consultants (**Internal and External Works**) **Framework of 6 consultants with the first 3 administering the 2013/14 DH works programme annual mini competition thereafter:**
    - Mace Group
    - John Rowan and Partners LLP
    - Pellings LLP
    - Frankham Consultancy Group Limited
    - Bailey Garner LLP
    - Potter Raper Partnerships
2. To authorise the Assistant Chief Executive (Legal), to enter into all necessary documents to implement the decisions made in respect of this report.

3. To adopt an initial capital estimate of £71 million in respect of the 2013/14 and 2014/15 DH Programme, profiled as 2013/14: £25million and 2014/15: £46 million, in order to enter into the contracts. The details of the programme of works will be subject to a separate report.

**Action by:****CORPORATE DIRECTOR DEVELOPMENT AND RENEWAL (A. DALVI)**

(Service Head Housing, Strategy and Regeneration (J. Odunoye)

(Housing Partnerships Manager (J. Kiwanuka)

(Decent Homes Procurement Project Manager THH (J. Mack)

**Reasons for the decision**

Cabinet in June 2011 agreed, for the longer term planning, to secure an OJEU procured and leasehold compliant framework to deliver the capital investment need in the future.

In July 2012 the Council entered into contract with the GLA for the DH Backlog funding. Under the Agreement the Council is contracted to deliver pre-agreed annual targets of DH in order to access the DH Backlog funding. The DH Contractor and Consultant procurement is critical to delivering the DH targets and securing the GLA funding. Therefore, it is vital that contractors are appointed to allow adequate time for procured resources to bed in and mobilise for a start on site at the beginning of the next Financial Year.

Additionally, the Council aims to ensure that its localism agenda is enshrined in its contracting processes by according apprenticeships and utilising local contractors and labour with view to stimulate the local economy. The OJEU procured Contractors have offered to contractually agree to deliver a raft of local benefits including apprenticeships, local labour and use local contractors, which will help stimulate the local economy, and allow local people to acquire relevant skills to enter employment.

**Alternative options**

Cabinet in June and September 2011 considered and agreed the method of procuring capital investment for the delivery of the DH Programme in 2013-16. It was agreed by Cabinet that for the longer term planning, to secure an OJEU procured and leasehold compliant framework to deliver the capital investment need in the future. The procurement method and process adopted including the results of the procurement exercise detailed within this report are an implementation of the fore mentioned Cabinet decisions.

**6.3 Disposals Programme****Decision**

1. To note the contents of this report:
2. To agree to the disposal of part of Southern Grove;

3. To authorise officers to secure a planning brief for site at part of Southern Grove;
4. Following consultation with the Mayor and Lead Member for Resources, authorise the Director of Development and Renewal, in conjunction with the Assistant Chief Executive Legal Services, to accept the best tender return for the site on conclusion of the marketing exercise; and ,
5. To authorise officers to appoint external agents to support the marketing of the site.

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

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

**Reasons for the decision**

It is important at a time of reducing funding and budgets in the public sector, to ensure that efficiencies are driven through the running and/or disposals of our assets to reduce revenue costs.

To continue to review and rationalise council assets, to reduce the Councils operational portfolio to the minimum.

That the site disposal will generate for the council significant capital receipts, for which can be directed to the Mayor's priorities on housing, education and infrastructure projects.

The development of the site will also, alongside the generation of a capital receipt, will bring forward social and affordable housing along with the potential for other community facilities.

**Alternative options**

The council has considered the option of developing the site directly, but the funding to deliver this as an option is not available.

**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 6<sup>th</sup> 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 4<sup>th</sup> 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.

## **7. A PROSPEROUS COMMUNITY**

### **7.1 Future Commissioning Arrangements for Public Health Services**

#### **Decision**

- 1 To approve the commencement of competitive tender processes for the following contracts:
  - (See section 1a of the spread sheet appended to the report); (Please note contracts will not be awarded if insufficient funding is allocated by the DoH and the matter will be brought back to the Mayor)
2. To approve the extension, for up to 12 months, and subsequent procurement during 2013/14, of the following contracts:
  - (See section 1b of the spread sheet appended to the report)
3. To approve the procurement, during 2013/14 of the following contracts scheduled to expire on 31 March 2014:
  - (See section 1c of the spread sheet appended to the report);

4. To note the contracts currently held by the NHS where the services are already provided by the Council. These will become directly provided services from 01 April 2013, and therefore no further commissioning is required:
  - (See section 1d of the spread sheet appended to the report);
5. To note the contracts which the NHS will not maintain beyond 31 March 2013 and will be decommissioned by the PCT. Therefore no commissioning activity is required by the Council:
  - (See section 1e of the spread sheet appended to the report);
6. To approve the transfer of responsibility to the Council for the elements of the current contracts with Barts Health NHS Trust and the East London Foundation Trust (ELFT) which pertain to services delivered to residents of Tower Hamlets and note that the Barts contract expires on 31 March 2014 and the ELFT contract on 30<sup>th</sup> June 2014. The services currently provided to Tower Hamlets residents under these contracts are:
  - (See section 2a of the spread sheet appended to the report);
7. To note the intention to work with the Tower Hamlets Clinical Commissioning Group, neighbouring Councils and their respective Clinical Commissioning Groups who have an interest in the contracts with the Barts Health NHS Trust during 2013/14 to determine longer term commissioning arrangements which balance local flexibility and priorities with a prudent approach to risk sharing;
8. To delegate authority to the Corporate Director responsible for the functions being exercised in the contracts in accordance with the Council's constitution in consultation with the Cabinet Member for Health and Wellbeing and Assistant Chief Executive (Legal Services), and subject to final approval by the Mayor, to enter into various agreements to give effect to the recommendations detailed above and also to enter an agreement with the Tower Hamlets Clinical Commissioning Group for the management of contractual arrangements with GPs and Pharmacists currently delivered under NHS Local Enhanced Services arrangements or direct employment contracts with the NHS, for the period 1 April 2013 to 31 March 2014. This is subject always to establishing adequate funding and satisfactory terms that protect the Council and deliver local objectives and or other appropriate providers. In particular the services currently provided to Tower Hamlets residents under these Local Enhanced Services arrangements are:
  - (See sections 2c and 2e of the spread sheet appended to the report);
9. To approve the proposed joint commissioning arrangements for the commissioning of sexual health services with the Commissioning Support Unit (who will commission health services on behalf of the Tower Hamlets Clinical Commissioning Group) acting as lead commissioner. The services currently provided to Tower Hamlets residents that fall within the remit of the proposed joint commissioning arrangements are:
  - (See sections 2b and 2d of the spread sheet appended to the report)
10. To delegate authority to the Corporate Director responsible for the functions being exercised in the contracts in consultation with the Cabinet Member for Health and Wellbeing and other relevant Lead Member(s) and chief officer(s), and the Assistant Chief Executive (Legal Services), and subject to final approval by the Mayor, to

approve the award of contracts to the most economically advantageous tenderers following the completion of the procurement processes referred to in recommendations 2, 3 and 4 above subject always to the establishment of appropriate terms and appropriate measures to safeguard local priorities.

11. To delegate authority to the Corporate Director responsible for the functions being exercised in the contracts to undertake and to enter into all appropriate arrangements relating to Equality Impact Assessments and consideration of the Public Sector Equality Duty in accordance with the Equality Act 2010 prior to any decisions being taken on commissioning or de-commissioning of services .

**Action by:**

**INTERIM CORPORATE DIRECTOR CHILDREN, SCHOOLS AND FAMILIES  
(I. CATTERMOLE)**

(Service Head: Commissioning and Strategy (D. Cohen)

**Reasons for the decision**

To ensure continuity of provision for public health services delivered under contracts which the Council will become responsible for, as a consequence of the enactment of the Health and Social Care Act 2012, from 01 April 2013 and which contribute to maintaining and improving the health of the population of Tower Hamlets.

The Council's Constitution, and the scheme of delegation to officers contained therein, do not currently incorporate the public health functions that will transfer to the Council from 01 April 2013. Up until the transfer date it is necessary, therefore, to seek Cabinet approval for all of the contracts relating to the discharge of those functions irrespective of value.

There are a number of drug / alcohol contracts (set out in section 1.b of the appended spread sheet) which are currently scheduled to expire on 31 March 2013. In order to provide sufficient time to plan a redesign of the treatment pathway for drug and alcohol services, to revise service specifications to reflect the planned redesign, and to undertake competitive procurement processes existing services will need to be maintained for a period of up to twelve months from the current expiry date.

**Alternative options**

The Mayor in Cabinet could require officers to consider alternative approaches to, or timescales for, the procurement plans set out in this report. This option is not recommended as it would lead to delays in the award of new contracts that may lead to discontinuity of service delivery.

The Mayor in Cabinet could instruct that specific contracts not be reproced. It should be noted, however, that officers have worked closely with public health colleagues, over an extended period of time, to determine the benefits for health and wellbeing in the population of the borough of each of the

services that it is recommended here be reprocurd. For this reason this alternative option is not recommended.

The Mayor in Cabinet could instruct that specific contracts, and / or contracts above a particular value are brought back to Cabinet for the contract award decision to be made, in preference to delegating authority to award those contracts to officers. However care needs to be taken to ensure delay in award does not impact on service delivery

The Mayor in Cabinet could choose not to extend the contracts managed by the Drug and Alcohol Action Team and instruct that notices of termination be issued to existing providers. This alternative option is not recommended as it would leave a particularly vulnerable group of residents of the borough at risk of significant deterioration in their health and wellbeing, and of increasing levels of crime.

## **8. A SAFE AND COHESIVE COMMUNITY**

### **8.1 Bonner Primary School - Proposed Extension**

#### **Decision**

1. To note the contents of this report;
2. To agree that statutory proposals should be published for the enlargement of Bonner Primary School to admit 120 pupils in each year from September 2013.
3. To authorise the Acting Corporate Director Children Schools and Families, after consulting with the Mayor, Cabinet Member for Children's Services and the Assistant Chief Executive (Legal Services), to negotiate and agree such terms (including, in either case, the payment of appropriate financial compensation), as will enable the proposed extension to Bonner Primary School either to share the PDC with the University until 2018, or for the University to vacate those parts of the PDC which it occupies and move into alternative premises.
4. To authorise the Acting Corporate Director Children Schools and Families, after consulting with the Mayor, Cabinet Member for Children's Services and the Assistant Chief Executive (Legal Services) to negotiate and agree with the University such terms for the University's continued occupation of the PDC as will enable the University to continue to enjoy its current use of the PDC in a manner which is consonant with the University's reasonable expectations including (without prejudice to the generality of the foregoing), teaching both undergraduate and post-graduate students in an environment not inimical to academic study.

5. To authorise the Acting Corporate Director Children Schools and Families after consulting with the Mayor, Cabinet Member for Children's Services and the Assistant Chief Executive (Legal Services) to take such steps as are necessary in the planning and design process to ensure that the Council is enabled fully to comply with its legal obligations relating to the safeguarding of children.

**Action by:**

**INTERIM CORPORATE DIRECTOR CHILDREN, SCHOOLS AND FAMILIES  
(I. CATTERMOLE)**

(Head of Building Development (P. Watson))

**Reasons for the decision**

Proposals have been developed to expand Bonner Primary School to assist in the LA's programme to provide primary school places to meet growing local need. Initial consultation on the proposals has been held. Cabinet is asked to consider the proposed expansion, the response to the initial consultation and the recommendation that statutory proposals for the expansion should be published. The publication of statutory proposals is required in order to implement this change to the school.

Although decisions were taken on the PDC in September of this year, by the Mayor in Cabinet, the University has since issued court proceedings against the Council, seeking judicial review of those decisions and alleging that they were invalid.

Without making any concessions as to whether there is any basis for the legal proceedings, it is considered sensible that the decisions should be considered afresh and that explicit consideration should be given to the University's concerns.

**Alternative options**

In order to meet the rising need for school places, the Council has implemented a number of school expansion projects and continues to develop further schemes to meet need. Longer term development plans for the borough include proposals for new primary schools. However, further expansion proposals are needed to keep pace with the need, so taking no action would leave the Council at risk of being unable to discharge its statutory functions. The options for expansion have been considered having regard to the factors set out in paragraphs 6.6 to 6.24 of the report.

**9. A HEALTHY AND SUPPORTIVE COMMUNITY**

**9.1 Violence Against Women and Girls Plan**

**Decision**

1. To agree the Violence Against Women and Girls Plan as set out in Appendix 1.
2. To consider the equality analysis in Appendix 2.
3. To note that the Violence Against Women and Girls Plan has been prepared with the Council's major partners to be the appropriate detailed service and partnership framework for addressing all forms of violence against women and girls within the Borough.

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

(Head of Community Safety (E. Fieran-Reed)  
(Domestic Violence & Hate Crime Manager (S Narayan)

**Reasons for the decision**

Addressing violence against women & girls is already recognised as a priority area regionally, nationally & internationally. The UN declaration on the Elimination of Violence Against Women was adopted by the General Assembly in 1993. This was followed by a resolution of intensification of efforts to eliminate all forms of violence against women in 2009.

In 2010, the Mayor of London published 'The Way Forward', a London-wide plan aimed to end all forms of violence against women in the capital. In 2011 the coalition government published its 'Call to end violence against women & girls' which outlines the responsibility of local authorities to co-ordinate their response to VAWG issues.

The Mayor of Tower Hamlets has been proactive in supporting work in this area and it forms part of the Mayors priority to drive down violent crime in the Borough. Tower Hamlets VAWG Plan takes a pro-active partnership approach to addressing this problem and makes a strong statement about the Council's commitment to safeguarding adults & children & pursuing gender equality.

**Alternative options**

*Do not have a VAWG Plan.* This would result in fragmented service planning between partners, duplication, lack of focus and inefficient use of scarce resources by all of the key partners engaged in reducing violence against women and girls.

*Do not agree this plan but ask for a different plan with different priorities.* This plan has been prepared in close consultation with all of the Council's major partners engaged in reducing violence against women and girls. As such it represents a shared platform of joint priorities that best reflect the way to maximise cross sector and organisation impact. The Plan has been based on established Council priorities to date and such a decision would cause significant delay to the process of joint planning and the achievement of more effective outputs for the Women and Girls at risk in the Borough.

## 10. ONE TOWER HAMLETS

### 10.1 Housing Revenue Account First Budget and Rent Setting Report - 2013/14

#### Decision

1. To agree that the Authority will continue to follow rent restructuring guidelines, and that therefore, the average 2013/14 weekly rent increase for tenanted Council dwellings will be £4.39 and the average weekly tenanted service charge increase will be £0.25 from the first rent week in April 2013.
2. To note that the HRA budget will be presented to Cabinet for approval in February 2013.

#### Action by:

#### **CORPORATE DIRECTOR DEVELOPMENT AND RENEWAL (A. DALVI)**

(Service Head - Resources (C. Holme)

(Finance Manager (P. Leeson)

(Senior Accountant, D&R (K. Ball)

#### Reasons for the decision

The Council must prepare proposals in January and February each year relating to income from rents and other charges, and expenditure in relation to management and maintenance of its housing stock. A decision is required with regard to rents and service charges in January in order that statutory notice can be given to tenants prior to 1st April implementation.

#### Alternative options

The Council is not obliged to follow national rent policy, but any rent increase below that assumed in the business plan would put at risk the Council's ability to fund the future capital programme. Mayor and Cabinet can determine to increase rents either above or below that recommended; the financial consequences of either decision are set out in section 9 of this report.

### 10.2 Council Tax Base Report

#### Decision

1. To consider and agree that:
  - in relation to second homes, furnished empty properties, properties undergoing refurbishment, and new properties, the Council can charge up to 100% of the full Council Tax payable;

- for properties empty for more than 2 years, a levy of 1.5 times the full Council Tax payable be charged; and
  - agree the policy on “Section 13a Council Tax Reductions”
2. To approve, in accordance with the Local Authorities (Calculation of Council Tax Base) Regulations 1992, that the amount calculated by the London Borough of Tower Hamlets as its Council Tax Base for the year 2013/14 shall be 71,531 including the technical changes.

**Action by:****SECTION 151 OFFICER, SERVICE HEAD – FINANCIAL SERVICES, RISK & ACCOUNTABILITY (A. FINCH)**

(Head of Revenue Services (R. Jones))

**Reasons for the decision**

To provide a simplified Council Tax policy and promote occupation of empty properties

The scheme for calculation of council tax established under the Local Government Finance Act 1992 requires local authorities to agree their Council Tax Base and to notify it to the preceptors (GLA) by 31st January 2013.

If the tax base is not agreed and notified to the Preceptor by 31st January 2013, this may prejudice the calculation of Council Tax for 2013/14.

**Alternative options**

The Council is obliged to consider the Government’s technical reforms and agree its response to them.

The recommendations contained within this report are made in line with the statutory requirements outlined in sections 3.2 and 3.3 of this report; and the alternative options in setting its Council Tax Base.

**10.3 General Fund Capital and Revenue Budgets and Medium Term Financial Plan 2013/14-2015-16****Decision**

1. To agree to propose the items listed below for public consultation and consideration by the Overview & Scrutiny Committee in accordance with the Budget and Policy Framework (Section 15). A further report will then be submitted to the next Cabinet meeting in February detailing the results of consultations and inviting the Cabinet to recommend a budget Requirement and Council Tax for 2013-14 to Full Council.

**a. Funding**

The funding available for 2013-14 and the indications and forecasts for future years (section 8) and note the introduction of the new local government funding system (Appendix 2).

**b. Base Budget 2013-14**

The Base Budget for 2013-14 as £293.865m as detailed in Appendix 2.

**c. Growth and Inflation**

The risks identified from potential inflation and committed growth arising in 2013-14 and future years and as set out in Section 9 and in Appendix 3.

**d. General Fund Revenue Budget and Medium Term Financial Plan 2013-14 to 2015-16**

The initial budget proposal and Council Tax for 2013-14 together with the Medium Term Financial Plan set out in Appendix 1 and the savings targets arising.

**e. Savings**

Savings items proposed to be included in budgets for 2013-14 and future years set out in Section 10 and in Appendices 4 and 5.

**f. Capital Programme**

The capital programme to 2014-15, including the proposed revisions to the current programme as set out in section 14 and detailed in Appendix 9.

**g. Dedicated Schools Grant**

The position with regard to Dedicated Schools Grant as set out in section 12 and Appendix 7.

**h. Housing Revenue Account**

The position with regard to the Housing Revenue Account as set out in section 13 and Appendix 8.

**i. Financial Risks: Reserves and Contingencies**

Advice on strategic budget risks and opportunities as set out in section 11 and Appendices 6.1, 6.2 and 6.3.

**j. Reserves and Balances**

The position in relation to reserves as set out in the report and further detailed in Appendices 6.1 and 6.3, and officers' advice on the strategy for general reserves at 8.40.

**Action by:**

**SECTION 151 OFFICER, SERVICE HEAD – FINANCIAL SERVICES, RISK & ACCOUNTABILITY (A. FINCH)**

**Reasons for the decision**

The Council is under an obligation to set a balanced budget for the forthcoming year and to set a Council Tax for the next financial year by 7th March 2013. The setting of the budget is a decision reserved for Council. The Council's Budget and Policy Framework requires that a draft budget is issued for consultation with the Overview & Scrutiny Committee at this meeting to allow for due process.

The announcements that have been made about Government funding for the authority require a robust and timely response to enable a balanced budget to be set.

**Alternative options**

The authority is bound to respond to the cuts to Government funding of local authorities and to set an affordable Council Tax and a balanced budget, while meeting its duties to provide local services. This limits the options available to Members. Nevertheless, the authority can determine its priorities in terms of the services it seeks to preserve and protect where possible, and to a limited extent the services it aims to improve further, during the period of cuts.

#### **10.4 London Borough of Tower Hamlets Council Tax Support Scheme**

**Decision**

1. To agree the proposed Council Tax Support scheme as the replacement to Council Tax Benefit from April 2013. (The draft scheme is published on the Council's website)
2. To note the results of the public consultation on the Council Tax Support scheme.
3. To note that the scheme will need to be agreed by full Council.
4. To note that adoption of the scheme will enable the council to apply for part of a £100m DCLG transition grant.

**Action by:**

**SECTION 151 OFFICER, SERVICE HEAD – FINANCIAL SERVICES, RISK & ACCOUNTABILITY (A. FINCH)**

(Claire Symonds – (Service Head Customer Access & ICT)  
(Steve Hill – (Head of Benefits Services)

### **Reasons for the decision**

The Council is obliged to agree a local Council Tax Support scheme to replace the national Council Tax Benefit Scheme which will be abolished in April 2013. Since Cabinet's decision on the 25<sup>th</sup> July, the Council Tax Support scheme for Tower Hamlets has been designed and developed, and consultation in accordance with the requirements currently indicated in the Local Government Finance Bill 2010-2012 has taken place. This report updates Members on the progress made and sets out the decisions that are now required.

The local Council Tax Support scheme needs to be submitted to DCLG by 31st January 2013.

### **Alternative options**

The Council is required by law to put in place a council tax reduction scheme by 31 January 2013. If it does not do so, then the Government's default scheme will apply in Tower Hamlets. The default scheme is set out in the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 and is publicly available.

The Council has limited discretion as to the contents of its council tax reduction scheme, as the scheme must contain the matters required by the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012. The chief area of discretion relates to non-pensioners, in respect of whom a means-based approach is proposed as set out in the report.

It is also proposed, for reasons set out in the report, that the scheme is framed so as to permit the Council not to pass on the Government's 10% reduction in funding.

An alternative approach would be possible, but may require further consultation and analysis.

## **10.5 Contracts Forward Plan Q3**

### **Decision**

1. To consider the contract summary at Appendix 1, and identify those contracts about which specific reports – relating either to contracting strategy or to contract award – should be brought before Cabinet prior to contract award by the appropriate Chief Officer for the service area;

2. To authorise the relevant Corporate Director who holds the budget for the service area to award the contract or contracts following consultation with the Assistant Chief Executive (Legal Services) on the relevant terms and conditions of contract with the exception of the Domiciliary Care Framework Contract (AHWB 4396) which was deferred; and
3. To authorise the Assistant Chief Executive (Legal Services) to execute all necessary contract documents in respect of the awards of contracts referred to at recommendation 2 above.

**Reasons for the decision**

The Council's Procurement Procedures require submission of a quarterly forward plan of contracts for Cabinet consideration, and it is a requirement of the Constitution that "The contracting strategy and/or award of any contract for goods or services with an estimated value exceeding £250,000, and any contract for capital works with an estimated value exceeding £5,000,000, shall be approved by the Cabinet in accordance with the Procurement Procedures". This report fulfils these requirements for contracts to be let during the period Q4 of the Financial Year and beyond.

**Alternative options**

As bringing a consolidated report on contracting activity is considered the most efficient way of meeting the requirement in the Constitution, whilst providing full visibility of contracting activity, no alternative proposals are being made.

**10.6 Procurement Plan****Decision**

1. To note the Procurement Policy Priorities.

**Reasons for the decision**

The way the Council sets about procuring works, goods and services is important to achieving compliance with legislation, delivering and demonstrating value for money and delivering its policy priorities.

**Alternative options**

The approach of public sector organisations to procurement is primarily governed by UK and EU law and the need to find substantial savings over the forthcoming period. Within that, the authority can set its own priorities in relation to the lawful objectives it sets out to achieve through its procurement processes.

**11. ANY OTHER UNRESTRICTED BUSINESS CONSIDERED TO BE URGENT****12. UNRESTRICTED REPORTS FOR INFORMATION****12.1 Exercise of Corporate Directors' Discretions****Decision**

1. To note the exercise of Corporate Directors' discretions as set out in Appendix 1.

**Reasons for the decision**

Financial Regulations requires that regular reports be submitted to Council/Committee setting out financial decisions taken under Financial Regulation B8.

The regular reporting of Corporate Director's Discretions should assist in ensuring that Members are able to scrutinise officer decisions.

**Alternative options**

The Council is bound by its Financial Regulations (which have been approved by Council) to report to Council/Committee setting out financial decisions taken under Financial Regulation B8.

If the Council were to deviate from those requirements, there would need to be a good reason for doing so. It is not considered that there is any such reason, having regard to the need to ensure that Members are kept informed about decisions made under the delegated authority threshold and to ensure that these activities are in accordance with Financial Regulations.

**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.

#### **14. EXEMPT / CONFIDENTIAL MINUTES**

Nil items.

#### **15. OVERVIEW & SCRUTINY COMMITTEE**

##### **15.1 Chair's advice of Key Issues or Questions in relation to Exempt / Confidential Business to be considered.**

Nil items.

##### **15.2 Any Exempt / Confidential Decisions "Called in" by the Overview & Scrutiny Committee**

Nil items.

#### **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))

**17. A PROSPEROUS COMMUNITY**

Nil items.

**18. A SAFE AND COHESIVE COMMUNITY**

Nil items.

**19. A HEALTHY AND SUPPORTIVE COMMUNITY**

Nil items.

**20. ONE TOWER HAMLETS**

Nil items.

**21. ANY OTHER EXEMPT/ CONFIDENTIAL BUSINESS CONSIDERED TO BE URGENT**

Nil items.

**22. EXEMPT / CONFIDENTIAL REPORTS FOR INFORMATION**

Nil items.

The meeting ended at 7.25 p.m.

**Isabella Freeman**  
**ASSISTANT CHIEF EXECUTIVE (Legal Services)**

Site ID.	Procurement Phase	Type	Document Description	Date
PBDC	ITPCD - S1	Cabinet	Cabinet report - Part 1	2012.07.04
PBDC	ITPCD - S1	Cabinet	Cabinet report - Part 2	2012.07.04
PBDC	ITPCD - S1	Cabinet - Decisions	Cabinet Minutes	2012.07.04
PBDC	ITPCD - S1	Cabinet - Decisions	Cabinet decision sheet	2012.07.04
PBDC	ITPCD - S2	Cabinet	Cabinet report - Part 1	2013.01.12
PBDC	ITPCD - S2	Cabinet	Cabinet report - Part 2	2013.01.12
PBDC	ITPCD - S2	Cabinet - Decisions	Cabinet decision sheet	2013.01.12
Watts	ITPCD - S2	Executive Mayor	Individual Mayoral decision proforma	2013.07.17
Watts	ITPCD - S2	Executive Mayor	Reasoning for decision proforma	2013.07.17
Watts	ITPCD - S2	Executive Mayor	Part 1 report for Executive Mayor decision	2013.07.17
Watts	ITPCD - S2	Executive Mayor	Part 2 report for Executive Mayor decision	2013.07.17

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