

# MAYOR'S EXECUTIVE DECISION MAKING

---

Monday, 29 July 2013

---

Mayor's Decision Log No. 31

---


1. **WATTS GROVE DEPOT REDEVELOPMENT - TENDER PROCESS  
UPDATE (Pages 1 - 30)**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: John S. Williams, Service Head, Democratic Services

Tel: 0207 364 4204, e-mail: [johns.williams@towerhamlets.gov.uk](mailto:johns.williams@towerhamlets.gov.uk)

This page is intentionally left blank

# Agenda Item 1

<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 Legal in conjunction to agree the contract terms in accordance with the tender and to complete the Development Agreement and any ancillary agreements required;

- 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.

Signed ..... Date .....

**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 .....

## 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

<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
--	--

<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 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.
- 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.

---

**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



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank