

<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