


<b>Cabinet</b> 5 <sup>th</sup> November 2014	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Corporate Director, Development & Renewal	<b>Classification:</b> Unrestricted
<b>Watts Grove Depot – tender process update and selection of preferred contractor</b>	

<b>Lead Member</b>	Cllr Rabina Khan Cllr Alibor Choudhury
<b>Originating Officer(s)</b>	Service Head, Corporate Property & Capital Delivery
<b>Wards affected</b>	Bromley South
<b>Community Plan Theme</b>	<b>Great Place to Live</b>
<b>Key Decision?</b>	No

### Executive Summary

This report deals with the selection of the preferred Design and Build contractor for the Watts Grove Project and the delegated authority to conclude contract discussions and enter into contract with the preferred contractor.

This report provides Members with an update on the procurement process for the development of Watts Grove depot site from its current use as a transport depot to create new socially rented housing.

### Recommendations:

The Mayor in Cabinet is recommended to:

1. Agree the selection of bidder 3 as the preferred bidder following the outcome of the tender evaluation process in October 2014;
2. Authorise officers to nominate the second highest bidder as a reserve and to authorise the Corporate Director of Development and Renewal, to call upon this reserve if the preferred bidder's contractual position deviates significantly from that tendered or if their bid is withdrawn;
3. Note that the tender evaluation in October 2014 has taken place prior to obtaining detailed planning approval, anticipated for December 2014;
4. Note that as a result of the timing of the planning application, provisional sums have been provided in the tenders for planning conditions which will be quantified with the preferred bidder following anticipated planning approval in December;

5. Authorise the Corporate Director, Development and Renewal, following consultation with the Service Head – Legal Services, to agree and enter into the terms and conditions of any agreements required to implement recommendation 1 (or recommendation 2 if so required) and progress the Watts Grove project;
6. Note that a capital estimate to the value of £26.33 million for the development of the Watts Grove Depot site has been incorporated within the Council's capital programme;
7. Note the development is funded from £6.9m GLA funding and £19.43m of the council's own resources and that a requirement of the GLA funding is that the scheme must start on site no later than March 2015;
8. Agree that the Watts Grove depot site will no longer be required for use as a depot by the Council, from the date on which it is vacated in accordance with the depot strategy.
9. Authorise the Corporate Director, Development and Renewal, following consultation with the Service Head – Legal Services, to appropriate the land for housing purposes.

## **1. REASONS FOR THE DECISIONS**

- 1.1 The delivery of the Watts Grove housing scheme will be key in meeting the Mayoral priority of additional affordable housing units within the borough.
- 1.2 In order to deliver the scheme, the council is required to appoint a Design and Build contractor. In the absence of such an appointment, the council will not be able to deliver the scheme.
- 1.3 The Design and Build contractor is being procured under the GLA London Development Panel Framework in order to expedite the programme and to achieve a start on site no later than March 2015.
- 1.4 This report provides feedback on the result of the procurement process for the delivery of the homes.

## **2. ALTERNATIVE OPTIONS**

- 2.1 The only alternative available to the Mayor is not to take a decision on the selection of the preferred Design and Build contractor. This course of action is not recommended as this would mean the council is unable to deliver the Watts Grove scheme.

## **3. DETAILS OF REPORT**

- 3.1 Officers have been working to deliver the Mayoral priority around the realisation of additional affordable housing within the Borough. The approach adopted for Watts Grove is for the Council to use its own resources combined with GLA funding to directly develop the site under a Design and Build contract.
- 3.2 A capital estimate of £26.33 million was approved by the Mayor on 28th February 2014, funded by £6.9 million of GLA grant and £19.43 million from the council's own Housing Revenue Account resources.

## **PROCESS TO DATE**

- 3.3 The GLA London Developer Panel Framework is being utilised to procure a Design and Build contractor in order to expedite the programme and to achieve the GLA requirement to start on site no later than March 2015. The GLA framework allows the Council to move through the process quickly and to identify a Design and Build contractor by October 24<sup>th</sup> 2014.
- 3.4 The GLA framework follows a staged process for contractor selection. In the first stage, expressions of interest were invited from the framework on 2nd May 2014. Expressions of interest were initially received from 10 bidders with 3 declining to bid.

- 3.5 At the second stage a Sifting Brief was issued to 7 bidders. The Sifting Brief required the bidders to respond to 9 questions relating to their approach to construction and project delivery.
- 3.6 Sifting Brief responses were returned on 13<sup>th</sup> June 2014. An evaluation of the submissions took place on 11<sup>th</sup> July 2014 by officers and the appointed project consultants. The evaluation team recommended that 4 bidders were shortlisted and invited to tender on 11<sup>th</sup> August 2014. Tenders were returned on 29<sup>th</sup> September 2014.
- 3.7 Carter Jonas was appointed as the lead consultant to coordinate the planning submission and they have a full team of sub-consultants to prepare the planning application and manage the tender process. BPTW architects were appointed to prepare the detailed planning application drawings and it is intended that they are novated to the successful Design and Build Contractor. Novation of the architect will assist in achieving design continuity and quality standards.
- 3.8 Tenders were returned on 29<sup>th</sup> September and a detailed tender evaluation took place in accordance with the GLA framework and the Council's procurement procedures. The evaluation panel comprised five members, including officers and the project consultants. The tenders were evaluated based on the following criteria –

Tenders were evaluated on a 60:40 price/quality split. Full details of the evaluation process were given to bidders in the tender pack together with the conditions for acceptance of the preferred bidder. Bidders completed the pricing element based on drawings and employers requirements that were issued in the tender pack. All documentation was issued electronically via the Due North procurement portal. They were required to complete a form of tender and pricing schedule together with a technical quality submission that was scored by the evaluation panel in accordance with the following standard questions and weightings:

<b>Evaluation</b>	<b>Mini Competition Project Specific Tender Weighting Range</b>
<b>Quality: 40%</b>	
1. Delivery Team and management structure & processes	5%
2. Programme & Sequencing	10%
3. Sustainability	5%
4. Customer service and Quality Control	15%
5. Stimulating the local economy	5%
<b>Price: 60%</b>	
Construction Costs	60%
<b>Total score</b>	<b>100%</b>

## Financial Evaluation

- 3.9 A tender report with recommendations was prepared by 27th October 2014. A summary of the findings is as follows –

Of the four bidders invited to tender at stage 2, three succeeded in returning a tender. Two of the three tender returns were in line with the pre-tender cost estimate. Following the initial evaluation, a series of clarifications regarding pricing were issued to all three bidders via the portal. The price element was checked and entered by the project quantity surveyor.

The price evaluation produced the following scores:

Contractor	Tender Sum	Evaluated Score
Bidder 2	£22,984,584.60	60%
Bidder 3	£23,210,758.00	59.42%
Bidder 1	£24,980,861.97	55.21%

## Quality Evaluation

- 3.10 Quality scores were entered individually by each panel member into the evaluation matrix which gave an aggregated score for each bidder. Five criteria were assessed in accordance with the Council's pre-agreed questions and marking system for qualitative assessment. In summary, the questions comprising the quality assessment comprised 40% of the overall marks available. The table below summarises the total price and qualitative score achieved by each bidder:

---

Rank	Supplier	Quality Score	Price Score	Total Score
1	Bidder 3	31.20%	59.42%	90.62%
2	Bidder 2	26.52%	60%	86.52%
3	Bidder 1	29.9%	55.21%	85.11%

As a consequence, bidder 3 is recommended as the preferred contractor and it is proposed that the Mayor agree the contract award to bidder 3, being the highest scoring bidder. In order to enter into contract with the preferred bidder, finalisation of the contract terms and the treatment of risk items (i.e. additional planning conditions impacting on design) is required. In the event these cannot be finalised to the extent that they present too high a risk for the council, it is recommended the Corporate Director of Development and Renewal be authorised to award the contract to the reserve bidder, subject to a report from officers.

Due to the GLA requirement for the scheme to be on site by March 2015, the planning application was submitted on 12<sup>th</sup> September to give sufficient time to be considered at a December 2014 planning committee. As a result of the

timing, provisional sums were provided in the tenders for planning conditions which will be quantified by the preferred bidder and agreed with the council following anticipated planning approval in December 2014. Further discussions will take place with the preferred bidder in December and January to finalise the Design and Build contract.

An early works agreement may be necessary pending finalisation of the main Design & Build contract. This may become necessary to allow further design development by the novated lead designer (instructed by the main contractor) to enable a site start in March 2015.

- 3.11 In addition to the specific contract costs, the Council will be liable for other scheme charges including Section 106 contributions. These could be significant and officers are currently assessing the obligations that will arise from a development of this scale, in line with the Planning Authority's Section 106 Supplementary Planning Document.

### **PROGRAMME**

The table below outlines the procurement timeline

Activity	Start date	Completion Date
Tender Return and recommendation to Cabinet	29/09/14	05/11/14
Alcatel period/standstill period.	17/11/14	28/11/14
Planning approval and end of Judicial Review period	19/12/14	19/03/15
Contract discussions and contract finalisation	01/12/14	30/01/15
Start on Site	19/03/15	19/03/15

### **COUNCIL PROCUREMENT COSTS**

- 3.12 A provision of £100,000 has been included within the project budget for legal and internal procurement costs

### **DEPOT ENABLING WORKS**

- 3.13 The Watts Grove depot currently operates as a functioning depot site, and acting as the primary depot site for the council's waste and street cleansing function, delivered via Veolia.
- 3.14 The council delivers a range of front line services across a number of depot sites, which include the following sites with the stated existing uses:
- Blackwall Depot – includes passenger services, transport vehicles, bins storage and maintenance, MOT and servicing workshop
  - Commercial Road – includes the civil protection store, car pound, parking services, trading standards, environmental health & FM
  - Toby Lane Depot – catering and passenger services
  - Watts Grove Depot – Veolia waste and street cleaning vehicles, clean and green team, Veolia waste team office
- 3.15 In order to vacate the Watts Grove depot, the council's Public Realm service have developed an Interim Depot Strategy which was agreed by the Mayor on 17 September 2014. This has informed a series of moves from Watts Grove onto other sites in the borough, as well as a series of consequential moves and will enable the services presently connected with that site to continue to be delivered from alternative sites.
- 3.16 The details of the Interim Depot Strategy are set out in the Mayoral decision of the same name which was published on the council's website on 17 September 2014.

#### **4. LAND APPROPRIATION**

- 4.1 The Watts Grove depot site is held under General Fund powers, but in order to develop Council owned tenanted dwellings on the site an appropriation of the land from the General Fund to the Housing Revenue Account will be necessary. The power to appropriate land is only exercisable where the land is no longer required for the purpose it is held immediately prior to the date of appropriation. The proposal to appropriate for housing is supported in that on the 5<sup>th</sup> September 2012, in its "update on development projects and its proposal to dispose of surplus assets" Cabinet approved that Watts Grove was surplus to operational requirements and should be categorised as surplus assets. In order to facilitate the transfer a financial adjustment is made based on the value of the land.
- 4.2 An independent market valuation of the site in July 2014 was nil for the planning application scheme of 149 units of social rented housing.
- 4.3 It is therefore proposed to appropriate the Watts Grove depot site from the General Fund to the HRA for nil value.
- 4.4 This report proposes that the appropriation of the site for housing purposes be delegated to the Corporate Director, Development & Renewal, following consultation with the Service Head – Legal Services.

## **5. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 5.1 This report requests the Mayor in Cabinet to agree the selection of bidder 3 as the preferred bidder following the tender evaluation process, and to authorise the Corporate Director, Development and Renewal, following consultation with the Service Head – Legal Services, to agree the terms and conditions of any agreements required to implement this decision, and in addition, to nominate the second lowest bidder as a reserve. The Mayor in Cabinet is also requested to agree that the Watts Grove site will no longer be required for use as a depot, and to authorise the Corporate Director, Development and Renewal, following consultation with the Service Head – Legal Services, to appropriate the land for housing purposes.
- 5.2 The proposed development on the existing Watts Grove depot site is for the provision of 149 new council dwellings. Following the Council's successful bid for Greater London Authority (GLA) funding support for the scheme, a formal capital estimate of £26.333 million was adopted by Mayoral Decision on 28<sup>th</sup> February 2014, comprising a budget of £24.333 million for works costs and £2 million for fees and on costs. The financing of the £26.333 million is as follows:

<b>Description</b>	<b>Watts Grove £'000</b>
<u>CAPITAL EXPENDITURE</u>	
Estimated capital cost and fees	26,333
GLA grant funding	(6,900)
LBTH Financing Requirement	19,433

- 5.3 There is sufficient borrowing headroom within the HRA to prudentially borrow to fund the whole of the Council's contribution of £19.43m, however it is preferable for the Council to apply its own resources wherever possible, either through a revenue contribution, or the use of HRA reserves, as this will reduce ongoing costs to the Housing Revenue Account and the impact on the Council's debt cap. An assessment will therefore be made at the time when financing is required as to how the Council's element of this scheme will be funded so as to ensure that best use is made of the Council's resources.
- 5.4 Capital resources to finance the Council contribution are limited, and any proposals must be considered in the context of competing demands from other projects. The main commitment within the HRA is currently the £181 million Decent Homes Backlog programme which is currently in the fourth year of the five year initiative, and the majority of Housing Capital Resources are committed to this project in the medium term. Any HRA borrowing undertaken to finance this scheme must be repaid so as to ensure that the HRA has the necessary borrowing capacity to fund the capital needs of the stock. Current financial modelling indicates that the borrowing will be needed



in 15-20 years' time, however, a more detailed assessment of the length of the loan period will be made at the time that any loans are taken out.

- 5.5 In order to receive the grant income from the Greater London Authority, it is essential that the grant conditions are met, including the specific delivery deadlines. The latest deadlines agreed with the GLA are that the 'start on site' must be before the end of March 2015, with practical completion of the scheme by November 2016.
- 5.6 The GLA grant is payable on completion and delivery of the full project. The Council will therefore need to forward fund the costs until the grant can be claimed at the end of the scheme. It should be noted that the Council will be liable for any additional costs if the contract values returned are higher than currently anticipated.
- 5.7 The Watts Grove site is currently used as an operational depot, and in order to release the site for redevelopment, alternative arrangements will need to be made for the delivery of the existing functions that are provided from the Watts Grove depot. Paragraphs 3.13 to 3.16 outline the proposals for the changes to the service delivery.
- 5.8 It should be noted that the approved capital estimate of £26.33 million does not include the costs of the technical development of the options for the Watts Grove Depot, the interim moves needed to release the site, or the works necessary to clear the site ready for development. As a result the 'Strategic Performance and Corporate Revenue and Capital Outturn Quarter 4 2013/14 (Month 12)' that was approved by Cabinet on 23 July 2014 agreed the establishment of a Corporate Reserve of £1 million to fund the decant of the Watts Grove depot site. Officers are currently assessing the likely total cost of the depot realignment and Members will be updated in future reports. If costs exceed the £1 million provision then additional resources will need to be identified.
- 5.9 As the Watts Grove site is currently being used as a depot and held under General Fund powers, the land will need to be appropriated to the HRA. This necessitates an adjustment to the HRA Capital Financing Requirement to reflect the market value of the site, with any resulting capital financing charges being incurred by the HRA instead of the General Fund. In this case however, the independent valuation of the site for the development of social housing is assessed as nil (paragraph 4.2) and therefore there is no specific financial impact on either the HRA or the General Fund of the appropriation being agreed.
- 5.10 As stated in paragraph 3.11, officers are assessing the other liabilities that will arise as a result of the redevelopment. A major element of this will be the Section 106 obligation which will form part of the total scheme costs.

## **6. LEGAL COMMENTS**

- 6.1 The Council is a local housing authority within the meaning of the Housing Act 1985 and is specifically empowered to provide housing accommodation on land acquired by it for the purposes of Part 2 of the Act. In this case, the land was not acquired for housing purposes, but the Council is empowered by section 19 of the Housing Act 1985 to appropriate for housing purposes any land vested in it or at its disposal.
- 6.2 The normal position under section 122 of the Local Government Act 1972 is that the Council may appropriate land from one lawful purpose to another when it is no longer required for the purpose for which it was previously held. There are exceptions to the Council's power to appropriate under section 122 in relation to specified categories of land such as open space, commons, pleasure grounds and burial grounds, none of which are considered to apply in this case.
- 6.3 The Watts Grove site has been held in the general fund and has been used as a depot in connection with delivery of pest control services, transport services and waste and cleansing services. Whilst the Council has continuing obligations to deliver these services, an Interim Depot Strategy is being implemented pursuant to which the Watts Grove site is to be vacated. Once the site has been vacated, it may be concluded that the site is no longer required for use as a depot.
- 6.4 It is proposed to award a contract to build 149 homes on the Watts Grove site. The value of the works exceeds the relevant threshold in the Public Contracts Regulations 2006 ("Regulations"), requiring the Council to comply fully with the provisions of those Regulations. The Council has complied with the Public Contracts Regulations by using a framework procured by the Greater London Authority (GLA), called the London Development Panel (LDP). For reasons set out in the report to the Mayor of 28 February 2014, it is considered that there is sufficient evidence to demonstrate that the LDP was procured in accordance with the Public Contracts Regulations 2006 and may lawfully be used by the Council.
- 6.5 The process of calling-off the LDP is governed by the requirements of the Regulations and framework. This includes various stages and exercises to narrow the selection of a contractor down to the most economically advantageous tender in accordance with the prescribed criteria and weightings. The steps which the Council has followed, as outlined in the report, appear to meet the requirements of the Regulations and framework.
- 6.6 The Council has an obligation as a best value authority under section 3 of the Local Government Act 1999 to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness." Compliance by the

Council with its own procurement procedures and the requirements of the Regulations should help to meet these requirements, but ultimately the Council must be satisfied that the project and the engagement of any contractors will also provide best value.

- 6.7 The project is being funded by a combination of GLA grant funding (£6.9m) and the Council's own resources (£19.43m). Conditions of the GLA grant funding have not been disclosed for legal comments but it is understood that they include, inter alia, that start on site be achieved by March 2015. The Council is required to meet the obligations and liabilities imposed by the conditions of the grant funding.
- 6.8 As noted at paragraph 3.11 it is likely that the scheme will be required to make contributions to infrastructure under s106 of the Town and Country Planning Act 1990 in accordance with the Council's planning policies. As part of the planning process the viability of the scheme should be considered to ensure that the scheme is not compromised.
- 6.9 Before deciding to proceed with the project, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010 (e.g. discrimination), the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector equality duty). Information is provided in the report relevant to these considerations.
- 6.10 It is anticipated that an early works agreement may be needed to allow further design development pending the finalisation of the design and build contract in order that a start on site in March 2015 can be achieved. Where this requirement arises, the agreement must be in writing and completed prior to commencement of any such works.

## **7 ONE TOWER HAMLETS CONSIDERATIONS**

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

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

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

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 The main risks that exist for the project are as follows:
- The depot relocation is delayed and start on site cannot be achieved by March 2015, resulting in a loss of GLA grant.

- The s106 contribution for the development is high and results in the total scheme costs exceeding budget.

9.2 The above will be managed by ensuring project measures are taken to achieve the depot relocation within the agreed timeframe and detailed financial viability analysis is undertaken for the s106 requirement.

## **10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

10.1 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.

## **11. EFFICIENCY STATEMENT**

11.1 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.

---

### **Linked Reports, Appendices and Background Documents**

#### **Linked Report**

- Watts Grove Depot – tender process update and selection of preferred bidder (exempt report)

#### **Appendices**

- 2013/14 Equalities Analysis – Watts Grove depot redevelopment

#### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

- None

#### **Officer contact details for documents:**

- Ann Sutcliffe, Service Head, Corporate Property & Capital Delivery, 020 7364 4077