

CABINET 08 FEBRUARY 2021

Report title: 49 Brixton Station Road/6 Canterbury Crescent - Development Objectives and Delivery Partner Procurement Exercise

Wards: Coldharbour

Portfolio: Councillor Matthew Bennett, Cabinet Member for Planning, Investment & New Homes

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REPORT SUMMARY

49 Brixton Station Road and 6 Canterbury Crescent are council-owned sites in the heart of Brixton, which currently provide successful temporary meanwhile uses including workspace at International House and food and beverage, retail and workspace uses at Pop Brixton. The success of these uses has demonstrated the potential of these sites to contribute to the resilience and long-term economic development of Brixton town centre. The purpose of this report is to initiate a procurement process that will secure a delivery partner to bring these sites forward for long-term development as a mixed-use residential and commercial scheme which will support the social and economic needs of the local community; providing high quality workspace and a range of new homes, half of which will be affordable. These sites provide the council with the opportunity to use its assets to support an inclusive recovery from the Covid-19 pandemic, directly address the housing crisis and respond to the Climate Emergency with a net zero development in the heart of the borough.

The scheme will deliver new commercial and affordable workspace, providing a new home for Brixton businesses and supporting the creation of hundreds of jobs while contributing to the economic resilience of Brixton's economy. This will be coupled with much needed affordable housing to respond to the high demand for homes in the borough and Brixton, including the potential to deliver around 120 affordable homes, of which around 80 will be council rented and prioritised for local residents on the housing waiting list, reducing the risk of homelessness and overcrowding for local families.

The report seeks agreement to the proposed development objectives, including the socio-economic outcomes of the scheme, and the proposed approach to community engagement. It also seeks approval for the proposed delivery and procurement route. Following a successful procurement exercise, the contract award with the preferred partner will be subject to a future Cabinet decision.

This project forms part of the council's wider and ongoing programme of investment focused on Brixton's Rec Quarter as well as the wider town centre and adjacent neighbourhoods, aimed at supporting a better, fairer Brixton.

FINANCE SUMMARY

This report recommends initiating a procurement process for the potential development of two sites within Brixton. If the procurement process is successful and development progresses, the Council could expect to generate a capital receipt along with wider benefits due to the delivery of new workspace, affordable housing, street market infrastructure, street improvements and employment and skills programmes. The costs of running the procurement process can be contained within existing approved revenue and capital budgets.

RECOMMENDATIONS

- (1) To commence the process to procure a delivery partner for 49 Brixton Station Road/6 Canterbury Crescent by way of a Development Agreement on a long leasehold basis.
- (2) To authorise officers to publish the procurement opportunity on the Find a Tender Service (FTS).
- (3) To agree that a Competitive Procedure with Negotiation (CPN) procurement process is used with the Development Agreement included as part of the procurement documents which will be finalised under delegated authority by the Strategic Directors of Sustainable Growth & Opportunity in consultation with Councillor Matthew Bennett, Cabinet Member for Planning, Investment & New Homes and the Director of Legal and Governance prior to agreement to enter into the Development Agreement being made at a future meeting of the council's Cabinet committee.
- (4) To note the financial assumptions set out in Part II of this report.

REASONS FOR EXEMPTION FROM DISCLOSURE

The accompanying part II report is exempt from disclosure by virtue of the following Paragraphs of schedule 12A to the Local Government Act 1972:

3. Information relating to the financial or business affairs of a particular person (including the authority holding that information).

1. CONTEXT

- 1.1 Brixton town centre is renowned for its heritage, independent retail, street markets, night-time economy and culture. It is also the civic and administrative heart of Lambeth. Despite its considerable strengths, it faces significant challenges related to its local economy, levels of deprivation and affordability.
- 1.2 The impact of COVID-19 has seen an increase of 3,415 Brixton residents who are now job seeking claimants – a number that has continued to rise month on month from 2,435 in January 2020 to total 5,850 as of December 2020 [Nomis/ONS]. This demonstrates the significant impact of COVID-19 on the livelihoods of the people of Brixton.
- 1.3 The pandemic has exacerbated existing challenges in the local area where much of the Coldharbour Ward falls within a ‘Strategic Area of Regeneration’ as classified by the Mayor of London in the London Plan (Draft London Plan Intend to Publish version December 2019, Policy SD10), meaning there are concentrations of housing, income and employment deprivation that rank amongst the most deprived 20% in England.
- 1.4 The availability of affordable housing is also an issue. As of the 1st December 2020, there were over 3,000 active bidders in the wards of Ferndale, Coldharbour, Herne Hill, Tulse Hill, and Brixton Hill on the council’s housing register. A shortage of council, social and affordable housing means that many local families are either in overcrowded or unaffordable homes in Brixton, or face having to leave the area. This can only be addressed by building more council, social and affordable housing for the local community. With just over 24% of people on the housing waiting list in the wider Brixton area, there is a clear need for provision of high-quality affordable homes to meet this local demand.
- 1.5 This data on a neighbourhood level demonstrates a need not only for a mix of quality, affordable housing but also workspace that can support the creation of local jobs, as recently identified as priorities in the Brixton Economic Action Plan (2018), Brixton Creative Enterprise Zone Action Plan (2019) and Lambeth Local Plan (Draft Revised Submission Version, Jan 2020).
- 1.6 In terms of the wider economic context, Lambeth has consistently seen a reduction in office space and associated jobs over the last 10 years and suffers especially from a lack of variety in office accommodation across the borough into which businesses can stretch and grow. Brixton (like Lambeth) has low vacancy rates at 2.1% over the last 10 years, which indicates a lack of supply and consistently strong demand (as set out in the JLL Lambeth Commercial Office Baseline Report, October 2020). The current office stock in Brixton is relatively low quality, with constrained space. Therefore, the development of the council’s sites as a mixed-use scheme will be a critical component in supporting Brixton’s economic growth and resilience and will add to the diversity of commercial and affordable floorspace being brought forward in the heart of the borough, led by both the council and other landowners.
- 1.7 The expected capacity of the council’s sites means that together with other schemes coming forward in the wider town centre there is potentially c.43,500 sqm of new commercial and affordable floorspace being brought forward over the coming years by a range of different landowners. The development of the council’s sites at 49 Brixton Station Road and 6 Canterbury Crescent is expected to secure 1,300 sqm affordable workspace as a minimum, contributing to an expected pipeline of c.5,000sqm new affordable workspace.
- 1.8 Overall, this demonstrates the impact of the council’s work to introduce policies that support the delivery of a stronger and more resilient local economy that can generate the opportunities needed

for the area's young and working age people (who comprise a higher proportion of the population than the borough and London averages at 76% compared to 74% and 67% respectively (GLA Mid-Year statistics 2015)).

- 1.9 Alongside workspace and the quality local jobs it can deliver, it is expected that around 240 homes can be delivered on the sites including 50% at affordable levels (approximately 120 affordable homes), of which around 80 homes could be delivered at council rents and prioritised for local residents on the housing waiting list. This aligns with Local Plan policy requirements seeking that 70% of affordable homes are delivered at council or affordable rent levels and the remaining 30% as shared ownership homes or London Living Rent levels. The site could also support operational infrastructure for Brixton's street markets and improvements to the surrounding streets. These improvements will help reinforce and add to the council's wider aspirations and existing projects supporting active travel and healthier, more inclusive streets and public spaces.
- 1.11 The council has a strong track record of using its own land and working with a diverse range of delivery partners to build more space for businesses to create local jobs and more homes to support local families as well as delivering high-quality public realm projects. Since 2009, the council and its partners have worked with residents, traders and businesses on a series of projects to bring more homes, community facilities and jobs to Brixton using council land. Working with Muse Developments, the council facilitated 'Your New Town Hall' bringing 219 new homes, 47% of them affordable, to Brixton alongside affordable workspace for local businesses and a new customer service centre for residents. On Somerleyton Road, the council, Homes for Lambeth and contractor, Galliford Try, is building Brixton House, a new home for Ovalhouse theatre, affordable workspace for creative and digital businesses and organisations in the arts, a new permanent home for Brixton Street gym and hundreds of new homes, 50% of them affordable. Public realm improvements have also been delivered at Electric Avenue, Canterbury Square and Windrush Square upgrading the quality of the local environment for all.
- 1.12 The council has also sought to use its own land to start building a pipeline of local businesses able to drive Brixton's local economic resilience and create job opportunities. This includes both the current use of International House as a five year meanwhile use project up to September 2023 (as set out in the 18 July 2018 Cabinet Member Decision Report – Future Use of International House) alongside the recent extension of the Pop Brixton lease to November 2022 (as set out in the 6 August 2020 Officer Delegated Decision). Both projects have provided a temporary launchpad for local businesses/social enterprises to start-up and develop in recent years in readiness to move to future workspace opportunities brought forward by both the council and private sector in Brixton and the wider borough.
- 1.13 The council now hopes to build on this track record by launching a procurement exercise to secure a delivery partner for the development of two of its sites in the heart of the town centre – 49 Brixton Station Road and 6 Canterbury Crescent. The potential of these sites has been long been recognised and identified in the Lambeth Local Plan through Policy PN3 and Site Allocation 15. These sites have also been the subject of previous public consultation exercises, alongside other sites in the town centre, through successive versions of the Lambeth Local Plan and earlier council-led work including the Future Brixton Masterplan (2009), Brixton SPD (2013), the Brixton Public Realm Study (2014), the Draft Brixton Central Masterplan (2014/2015), the Brixton Economic Action Plan (2018) and the Brixton Creative Enterprise Zone Action Plan (2019).
- 1.14 The council is committed to maximising community benefits from the development by ensuring effective engagement with the local community and stakeholders in respect of the planning, delivery and operation of the scheme, in line with previous successful engagement exercise that have helped to secure:

- the delivery of public realm and street market improvements at Electric Avenue;
- the creation of meanwhile use projects at Pop Brixton and International House to support local businesses;
- successful funding applications to establish Brixton as a Creative Enterprise Zone;
- and deliver the Regenerating Brixton's Rec Quarter project, which will secure new affordable workspace at the Brixton Rec as well as shopfront and public realm improvements on Brixton Station Road co-created with local businesses and stakeholders.

1.15 By bringing forward a delivery and procurement strategy for the sites now, the council hopes to support a better, fairer Brixton for generations to come alongside its wider programme of work in the immediate vicinity of Brixton's Rec Quarter, the town centre and the adjacent neighbourhoods. This project also directly responds to the priorities set out in the council's Economic Resilience Strategy launched in September 2020 which emphasises the importance of the council progressing projects on its own land that have the potential to drive an inclusive and resilient recovery as we emerge from the COVID19 crisis.

2. PROPOSAL AND REASONS

2.1 The council wants to secure a delivery partner to design and develop a new mixed-use scheme at 49 Brixton Station Road and 6 Canterbury Crescent to address the issues raised in the preceding section while realising the objectives of the Lambeth Local Plan and Site Allocation 15.

2.2 This section outlines the proposed development objectives and the public benefits that will be required through the development of the council's land. It is proposed that the council selects a delivery partner that can bring the necessary investment and expertise to support the delivery of these objectives and benefits through an open and competitive procurement process. It is also proposed to structure, harness and direct this investment through a development agreement, which will support an inclusive recovery from the coronavirus pandemic, greater economic resilience and action on both equalities issues and the climate emergency.

2.3 The full range of options that have been considered and discounted in coming to this proposal is also outlined from paragraph 2.24 – 2.26 below.

Development objectives

2.4 The following development objectives and public benefits are sought from the future development of the sites and have been informed by the data on the issues affecting Brixton as well as the policy documents set out in Section 1 of this report. The objectives are as follows:

- The delivery of a minimum of 6,500 square metres (Gross Internal Area) of employment floorspace which is equivalent to the floorspace within International House, which:
 - Supports Brixton's economic resilience by strengthening and diversifying the local economy through the delivery of a new or refurbished commercial and affordable workspace in the town centre;
 - Provides a mix of workspace types which are responsive to Brixton's local economy and economic potential (e.g. fixed desks, studios, co-working, makerspace, office space);
 - Allocates 20% of the workspace to be provided as Affordable Workspace (defined as having a discount of 35% on market rents over a 25 year period or, alternatively a smaller

proportion of affordable space could be delivered with a higher discount in line with the Draft Affordable Workspace SPD policy) which is double the amount required to be provided by planning policy;

- Supports relocation of existing tenants through a phasing/relocation strategy to be secured through the development agreement. This objective will also be supported via the council's work on supporting businesses to progress on to different spaces in Brixton and the wider borough;
 - Guarantees all jobs related to the delivery and ongoing operation of the development are required to pay the London Living Wage;
 - Secures the delivery of significant employment and skills benefits including providing jobs, paid work experience, internships and apprenticeships during the planning, construction and operational phases of the development as part of a locally relevant employment and skills strategy.
 - Ensures 25% or more of the construction and end-user jobs/apprenticeships are prioritised for local people in line with Lambeth Local Plan requirements.
 - Maximising local community benefits and participation through commitments around engagement and co-design in respect of the planning, delivery and operation of the scheme.
 - Commitments to a range of initiatives which will reduce inequalities including those affecting Black, Asian and Minority Ethnic groups in the local area by creating opportunities and driving the delivery of benefits for these groups through the development, e.g. through appointing a diverse project team and sub-consultants as well as supporting Black, Asian and Minority Ethnicised businesses to benefit from supply-chain opportunities.
 - The delivery of around 240 homes of which 50% will be delivered as affordable housing (with 70% at council rents and 30% as either shared ownership or London Living Rent) in line with Lambeth Local Plan requirements and prioritised for local residents. A high proportion of these homes will be of family sized accommodation in line with Lambeth Local Plan requirements and local housing need.
 - The delivery of infrastructure to support Brixton's street markets including a market trader car park/storage space and the re-provision of a waste compound facility.
 - The delivery of street improvements including tree planting and soft landscaping to Brixton Station Road and Popes Road that will contribute to the council's wider efforts to support active travel and the wider network of safer and healthier streets as well as climate change adaptation.
 - Supporting the council's targets for carbon neutrality and tackling climate change by achieving a net zero development.
 - Securing a capital receipt in consideration for a long leasehold interest in the sites which will be directed to the council's capital programme.
- 2.5 The council will also secure Community Infrastructure Levy funding, s106 contributions, council tax and business rates income as part of the development of the sites.
- 2.6 It should be noted that all requirements will be subject to a future planning application to be determined by the Local Planning Authority in accordance with the adopted Development Plan at a future date. The planning application will be brought forward by the successful delivery partner identified through the procurement exercise.

Community Engagement

- 2.7 The council is clear that the community of Brixton must understand and feel a sense of ownership of the outcomes and public benefits that a future scheme on the sites will deliver. For this to happen, it is essential that they are meaningfully involved in the proposals as they develop.
- 2.8 The future development of the sites has been the subject of previous public consultation exercises, alongside other key sites in Brixton town centre, through successive versions of the Lambeth Local Plan and earlier council-led work including the Future Brixton Masterplan (2009), Brixton SPD (2013) and the Brixton Central Masterplan (2014/2015). In recent years, the council has also undertaken proactive engagement work to understand, develop and support the potential of Brixton's local economy. This includes engagement activities and workshops used to feed into the priorities set out in the Brixton Economic Action Plan (2018) and the Brixton CEZ Bid and subsequent Brixton CEZ Action Plan (2019).
- 2.9 Together, these policies, plans and strategies and the engagement and consultation that underpin them have informed the development objectives for this procurement exercise as set out above in section 2.4.
- 2.10 The council is committed to building on this earlier work through fresh engagement with local stakeholders regarding the procurement exercise and it is considered critical that the community feels fully engaged in the project as it moves through different stages of development as follows: Phase 1 – Partner Procurement; Phase 2 – Design Development, Planning & Construction; Phase 3 – Management & operation of completed development.
- 2.11 Phase 1 engagement activities will be council-led and include working with key local groups of residents and businesses that will be directly impacted by the proposals, including Brixton market traders, tenants of local businesses including International House and Pop Brixton and residents of nearby properties. Engagement activities will also target young people as key beneficiaries of the future development and seek to raise awareness of the project amongst those who do not traditionally get involved in development proposals and groups representing people with Protected Characteristics.
- 2.12 Community engagement is also expected during Phase 1 through 'Meet the Bidders/Community Days' where it is anticipated that bidders will present their proposals and local stakeholders will be able to comment and provide feedback.
- 2.13 In line with the development objective of 'Maximising local community benefits and participation through commitments around engagement and co-design in respect of the planning, delivery and operation of the scheme' set out under 2.3, the council has placed significant emphasis within the evaluation criteria that will be used to select a future partner on approaches to 'Partnership, engagement and Co-design' with 10% of the available marks allocated toward this area as part of the overall evaluation.
- 2.14 Bidders' will be expected to set out clear commitments and a convincing strategy for ensuring successful and inclusive consultation, engagement and co-design in both the development of the scheme and in its later operation (Phases 2 and 3). Within this strategy, it will be necessary for bidders to set out specific proposals in respect of setting up engagement structures that will allow the community to meaningfully feed into the proposals on an on-going basis as they develop. The council will provide oversight over the delivery of these commitments as well as the overall project through a proposed Joint Delivery Board (as set out under 2.26).

2.15 The council has explored options around developing the sites individually or as a combined package through a high-level capacity study. Due to the nature of the sites' sizes and their current use/state of repair, a combined approach across the two sites identified in Appendix 1 is proposed. This combined approach could comprise redevelopment of both sites, or it could also see the existing structure of International House retained and refurbished. The preferred route will be determined through the procurement process. However, as a base case it is envisaged that both sites will be redeveloped to secure sustainable and energy efficient buildings.

2.16 Bringing the sites forward as a combined opportunity provides the following benefits:

- The ability for the delivery partner to have flexibility across the sites as to where the required uses can be situated to achieve the best design response;
- The need to ensure the future development can achieve net zero aspirations;
- The scale of the combined scheme will maximise the potential pool of bidders as well as the benefits due from the development; and,
- Ease and speed of delivery can be expected through the use of a single, cohesive approach to site delivery, offering opportunities around phasing that could support the direct relocation of tenants which would not otherwise exist as well as the ability to minimise disruption to the local area through a comprehensive approach.

Procurement

2.17 Due to the estimated contract value of the eventual scheme that can be delivered on-site, the council must run a competitive procurement process advertised via the Find a Tender Service (FTS) or access a pre-procured procurement framework. An open and competitive process is proposed as this will maximise the potential pool of bidders.

2.18 The procurement route chosen is: Competitive Procedure with Negotiation (CPN), this is considered the most appropriate procurement route for the council's requirements given that the site development objectives are well developed and capable of clear specification to bidders.

2.19 Running a CPN process will also allow the Council to hold direct negotiations with bidders to improve the quality of bids while ensuring a streamlined process can be undertaken. This is expected to reduce resourcing requirements for both the council and bidders. The process will be concluded within 12 months of the expected launch in March 2021.

2.20 Given the nature of the procurement exercise and the need to drive significant public benefits from the scheme, the evaluation criteria proposed is weighted towards Quality, with 55% of marks allocated to Quality categories. The remaining 45% of marks are divided between Financial and Legal categories. The approach has been designed to ensure a prospective partner can be selected that shares the values, aspirations and priorities of the council and is committed to working with both the council and local community to deliver against the full range of priorities set out in 2.4.

2.21 The overall approach is set out below:

Table 1 – Proposed Evaluation criteria

Section A – Quality		55%
	A1 – Economic Strategy	25%

	A2 – Partnership, engagement and co-design	10%	
	A3 –Equalities, Diversity & Inclusion	10%	
	A4 - Land Use, Sustainability, Urban Design and Architectural Approach	10%	
Section B – Financial			35%
	B1 – Land Payment	30%	
	B2 – Overages	5%	
Section C – Legal			10%

Development Agreement

2.22 A partnership with a developer or consortium through a development agreement is proposed as a means of securing the best possible outcomes from the site for the council and local community. Such a contractual arrangement will allow the council to benefit from private sector delivery experience as well as secure, and if necessary enforce, its requirements through the terms of the agreement while retaining a stewardship role as a landowner. This section highlights the key provisions that will be sought through the development agreement for the 49 Brixton Station Road/6 Canterbury Crescent sites.

2.23 The Development Agreement will establish contractual commitments to:

- the council retaining the freehold of the sites and granting the preferred partner a long leasehold of at least 250 years on practical completion of the development;
- provide Homes for Lambeth with a right of first refusal on the acquisition of the affordable housing at market value;
- the partner delivering the objectives outlined at 2.4 above;
- the partner delivering activities and outcomes in line with the strategies submitted as part of the procurement exercise, e.g. the Workspace strategy, Employment and skills strategy, Partnership, engagement and co-design strategy and Equalities, diversity and inclusion strategy;
- the partner setting up and working with the council through a Joint Delivery Board which is detailed at 2.23 below;
- the partner funding and managing all necessary approvals, including securing a planning permission;
- the partner paying a fixed land payment to the council;
- the partner agreeing an overage to capture any uplift in gross development value arising from a bigger scheme or higher revenues than initially envisaged

- the partner delivering against a clear scheme delivery programme;
- all planning, construction, sales/letting and operational risks being taken by the partner

Options

2.24 Table 2 – Delivery Options

Option	Pros	Cons	Conclusions
Disposal on the open market on an unconditional basis	The potential to secure a higher land value	It would limit the extent of control afforded to the planning decisions process alone and would be unlikely to secure the enhanced outcomes sought from the site such as delivering more affordable workspace than is required by planning policy	A greater degree of control and certainty over outcomes is sought given the sites' strategic location in the town centre and potential to drive public benefits. This option was therefore discounted to ensure the council can take a greater stewardship role in the development as landowner and exert control by both the Development Agreement and the planning process.
Council self-delivery	High level of control.	<p>The council has already committed to funding an ambitious programme of housing delivery via its wholly owned vehicle, Homes for Lambeth, and as such the use of its investment capacity is better committed to supporting this existing programme especially when the council's objectives for these sites can be comprehensively secured through an experienced delivery partner.</p> <p>The council also does not have existing in-house expertise in the direct delivery of complex, mixed use town centre schemes to draw on which could have reduced the costs and risk associated with assembling an</p>	Self-delivery was therefore discounted in favour of the Development Agreement option as the council's resources are already committed to an ambitious housing delivery programme via Homes for Lambeth and in this specific instance, all of the council's objectives can be secured through leveraging the procurement process to secure an appropriately experienced delivery partner.

		appropriate delivery team.	
Joint venture structure	Share of risk with a JV partner and utilisation of JV partner expertise.	Similar issues to self-delivery regarding investment and in-house expertise required from the council but with reduced level of control.	Discounted as it is expected this would lead to limited interest from partners and require a degree of council investment and expertise similar to the self-delivery model.

2.25 Table 3 – Procurement approach

Option	Pros	Cons
CPN	<p>Opens the competition to as wide a group of potential bidders as possible</p> <p>It also facilitates a reasonable level of engagement with bidders through the procurement process in order to improve outcomes.</p>	Need to have a clear and prescriptive specification as there isn't the opportunity for longer competitive dialogue.
Framework Agreement	Can increase the speed of procurement as frameworks have completed pre-tender qualification requirements.	Use of existing framework agreements such as the London Developer Panel would limit the range of potential partners to those listed on the framework. The council have reviewed panel membership and recommend that in order to broaden the potential partner pool to include parties well-suited to delivering this mixed use project, that the panel is not the most effective means of procurement.
Restricted Process	Can be a direct and efficient process where the specification requirements are very clear and without complexities that require dialogue to respond to effectively.	Would not allow for any dialogue with the potential bidders and assessment by written submission only. The inability to carry out negotiations during the procurement process restricts the potential efficacy of this procedure in relation to a procurement exercise where multiple solutions could be acceptable and the council wants to facilitate innovation from the market and the full clarification/betterment of initial proposals through negotiation.
Competitive Dialogue Process	Beneficial where council does not have definite technical, legal or financial requirements and requires more input from the market to develop solutions.	This is a more open-ended and generally more costly procurement process for all parties, which in this case isn't needed as the council is clear on its key desired outcomes from the development, which are underpinned by the requirements of the Lambeth Local Plan.

2.26 The CPN procurement route balances a range of desired objectives, opening the opportunity to a wider market than a framework, enabling dialogue throughout the process whilst not requiring the more open-ended and lengthier competitive dialogue.

Contract Management

2.27 Following the appointment of the preferred partner, contract management will be achieved through the provisions of the Development Agreement which will be finalised through the procurement process. Expected provisions include:

- Joint Delivery Board – this will serve as a partnership working body for both the partner and council representatives. It will monitor progress of the delivery of the overall requirements in the Development Agreement as well as its associated strategies. It will be required to sign off certain contractual matters and meet on a bi-monthly basis throughout the life of the project and early operational stages of the development to ensure effective delivery of the desired public benefits.
- Project Monitor – a council appointed, and partner funded Project Monitor is required to monitor progress toward delivery of the requirements of the Development Agreement.

3. FINANCE

3.1 The council has worked with external advisors to model the expected costs and income related to the potential redevelopment of the 49 Brixton Station Road/6 Canterbury Crescent sites. Based on the modelling undertaken with the assumptions about the level of affordable housing and affordable workspace being provided it has been demonstrated that there is a viable project which can deliver a residual land value to the council. More detail is included within the exempt section of this report.

3.2 The outcome of the procurement process will depend on the bid that achieves the best score based on all the council's objectives for the project and thus will not be solely based on the highest land value offered. The financial offers will be scrutinised throughout the procurement process and any bids received will be fully market tested and assessed for robustness. Bidders will be required to offer a fixed land payment and overage payments aimed at ensuring the council will benefit from any additional uplift in the value achieved by the partner in bringing forward detailed development proposals and in future sales/letting.

3.3 In determining the objectives for the project the Council needs to balance the desire to provide additional affordable housing and affordable workspace for the benefit of residents with the need to generate income that enables the Council to fund its existing and future activities. Due to the strategic importance of this scheme it has been agreed that 50% Affordable Housing and 20% Affordable Workspace, which is in excess of policy requirements should be required from all proposals made to the Council. It should be noted that this will have the effect of suppressing the capital receipt that can be achieved in favour of securing these enhanced public benefits.

3.4 Any capital receipt ultimately received will be used to support the Council's wider priorities as a funding source for the capital programme in line with financial regulations. Cabinet agreed a capital programme for 2020-21 to 2024-25 in July 2020. The timing of any receipt from this project is likely to be at the end of that time period and hence will most likely be used as a funding source for the capital programme that follows.

3.5 The Council can also expect to receive CIL payments as a result of any development and would likely benefit from any uplift in business rates depending on the appropriate legislation at the time the development completes. Government intentions around business rates policy and wider local

government funding remain unclear in the medium and longer-term. Any increase in the level of affordable housing within the Borough also has the potential to reduce the pressure on Temporary Accommodation budgets.

- 3.6 The costs of the external support (legal and commercial) through the procurement process is expected to be £238,714. These costs can be funded from the capital budget of £28m for economic infrastructure investment which was agreed by cabinet on 20th July 2020. Of this amount £5m has been initially allocated to feasibility work and pre-development activity. Internal staff costs can be met from existing revenue and capital budgets, which could include capitalisation against the pre-development activity budget as appropriate.

4. LEGAL AND DEMOCRACY

- 4.1 Section 1 of the Localism Act 2011 provides the Council with the power to do anything that individuals generally may do. This power extends to doing things that an individual may do which are unlike anything that the Council currently does, or public bodies do. This power can be used for commercial purposes or otherwise for a charge, or without a charge. The Council may exercise this power for, or otherwise than for, the benefit of the authority, its area, or persons resident or present in its area. This general power is limited by any restrictions in any existing or future legislation.
- 4.2 Section 3 of the Public Services (Social Value) Act 2012 requires the council before entering into the contract to consider to the extent it is proportionate in the circumstances —
- (a) How what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and
 - (b) How, in conducting the process of procurement, it might act with a view to securing that improvement.
- 4.3 Section 2(1) of the Local Authorities (Land) Act 1963 provides that a local authority may, for the benefit or improvement of their area, erect any building and construct or carry out works on land.
- 4.4 Section 111 of the Local Government Act 1972 empowers the council to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights), which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.
- 4.5 Section 149 of the Equality Act 2010 sets out the public sector equality duty, i.e. that all public bodies are under an obligation to have 'due regard' to eliminating unlawful discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, pregnancy, and maternity, marriage and civil partnership, race, religion or belief, sex and sexual orientation.
- 4.6 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not involves having due regard, in particular to the need to-
- a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who don't share it; and
 - c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 4.7 Section 149 (1)(b) of the Act states that: a public authority must, in the exercise of its functions, have due regard to the need to advance equality of opportunity between persons who share a relevant

protected characteristic and persons who do not share it. Part of the duty to have “due regard” where there is disproportionate impact will be to take steps to mitigate the impact and the Council must demonstrate that this has been done, and/or justify the decision, on the basis that it is a proportionate means of achieving a legitimate aim. Accordingly, there is an expectation that a decision maker will explore other means which have less of a disproportionate impact.

- 4.8 The Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.
- 4.9 Compliance with this duty may involve treating some persons more favourably than others, but that is not to be taken as permitting conduct which would otherwise be prohibited under the Act.
- 4.10 Members need to ensure that they act reasonably in making any decision. This would require them to take account of all relevant considerations, disregard irrelevant matters; observe procedural requirements, not act in bad faith, act for proper purposes and not make a decision that is so unreasonable that no reasonable local authority would make. Member’s obligations in this respect would include complying with their fiduciary duty to its Council Taxpayers and other funders.
- 4.11 The procurement procedure cited and proposed in this report is compliant with the Public Contracts Regulations 2015.
- 4.12 This proposed key decision was entered in the Forward Plan on 19 October 2020 and the necessary 28 clear days’ notice has been given. The report will be published for five clear days before the decision is considered by Cabinet. Should it be approved, a further period of five clear days, the call-in period, must then elapse before the decision becomes effective. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

5. CONSULTATION AND CO-PRODUCTION

- 5.1 Proposals related to consultation and co-production have been set out at section 2.7-2.14.

6. RISK MANAGEMENT

- 6.1 The Project Team responsible for the delivery of the procurement and management of the subsequent contract have developed a risk register in Table 4 below.

Table 4 – Risk Register

Item	Risk	Likelihood	Impact	Score	Control Measures
1	Poor market response	2	8	16	Council has undertaken to work to test market and is confident in market response. Should the market response be unfavourable, the council will reserve the right to halt the procurement to reconsider options.
2	Risk of legal challenge to procurement exercise	1	2	2	Council has appointed independent legal advisors to support and review process throughout to ensure legal compliance and minimise risk of challenges. In-house procurement

					and legal team also supports compliance
3	Not securing delivery of desired outcomes/benefits	1	8	8	Development Agreement has been developed to ensure appropriate control mechanisms and oversight of the development that is contractually enforceable The future planning application will be subject to the requirements of the Lambeth Local Plan and assessed by the Local Planning Authority. Any future permission granted and associated s106 agreement provides another means of securing the desired outcomes.
4	Businesses and tenants occupying International House and Pop Brixton leave Brixton/Lambeth	2	4	8	The procurement exercise requires bidders to set out how they will support business continuity for existing tenants and set this out in a strategy. Relocation can also be supported through the proposed approach to phasing. The council will work with the operators/tenants to support relocation in the town centre and borough (including within new council-led schemes, new affordable workspace provision delivered by other developments and new meanwhile use sites) and the use of policy tools like its 'Organisations at risk' register to support retention and relocation.

Key

Likelihood	Very Likely = 4	Likely = 3	Unlikely = 2	Very Unlikely = 1
Impact	Major = 8	Serious = 4	Significant = 2	Minor = 1

7. EQUALITIES IMPACT ASSESSMENT

7.1 An EIA has been undertaken to understand the impact of this decision. Overall, the impacts are considered to be notably positive for the majority of groups with Protected Characteristics as well as local stakeholders who will be affected, either directly or indirectly. Examples of positive impacts are noted in the EIA and include new affordable and high-quality housing for local residents from Black, Asian and Minority Ethnic backgrounds and people with disabilities. These groups will also be identified as key beneficiaries for targeted jobs and employment and skills opportunities. Local young and working age people stand to benefit from the London Living Wage guarantee that is expected as are Black, Asian and Minority Ethnic-led and female-led businesses who will be identified as target beneficiaries for local supply-chain opportunities.

- 7.2 Furthermore, the procurement exercise has been designed in a way that will support positive equalities, diversity and inclusion outcomes by awarding 10% of the available marks towards strategies detailing potential partners commitments in this area.
- 7.3 Short-term negative impacts could be experienced by the current tenants occupying the sites on a temporary basis. However, the council and successful partner will both work to deliver a strategy that supports the relocation and retention of businesses in Pop Brixton and International in the Brixton area as well as the uses currently supporting the operation of the street market. As this is a long-term project at an early stage, there are no immediate impacts of this decision on current tenants and no changes to the operation of any of the current uses on site, with leases on Pop Brixton and International House running until November 2022 and September 2023 respectively. Work will begin to understand and identify detailed options following the decision. In some cases, mitigation measures will be tied to the future planning application process which is not anticipated until 2023 and will be subject to a successful outcome from the procurement exercise.
- 7.4 The full EIA is appended to this report. It was taken to the Member-led Corporate EIA Panel on the 26th January 2021 and feedback taken into consideration in order to inform the procurement exercise and consultation approach.

8. COMMUNITY SAFETY

- 8.1 It is expected that future development will enhance the sites and contribute toward broad objectives around community safety by activating the sites with permanent development that will create a positive relationship with the adjacent streets and encourage footfall across the day and evening. Improvements to the public realm on Brixton Station Road and Pope's Road delivered through the scheme will add to and ensure a successful relationship with other public realm works being planned and undertaken in the immediate area including via the Regenerating Brixton's Rec Quarter project.
- 8.2 New affordable and family housing will have a positive impact on quality of life and feelings of safety and security – reducing overcrowding and for some, the risk of homelessness. Furthermore, the creation of new jobs, training opportunities as well as a focus on young people is likely to have a positive impact on feelings of safety and belonging. Overall then, the project is expected to help this key part of Brixton town centre feel safer, healthier and more inclusive.

9. ORGANISATIONAL IMPLICATIONS

Environmental

- 9.1 It is expected that any new development that results from a successful procurement exercise will contribute positively to enhancing environmental outcomes in the local area. The need to achieve net zero development as well as contribute toward Lambeth's climate emergency action through innovative and sustainable approaches to design and construction is to be emphasised within the procurement documentation. Furthermore, the development is expected to deliver enhanced public realm for the adjacent streets including tree planting and soft landscaping which can support climate change adaptation and help encourage active travel. A sustainability strategy will be submitted by prospective partners to secure these commitments through to scheme delivery and final proposals made through a future planning application.

Health

- 9.2 It is expected that the any new development that results from a successful procurement exercise will contribute positively to enhanced health outcomes in the immediate area, e.g. through indirect

factors such as the development of high-quality and family sized housing to securing good quality jobs to direct factors such as street improvements that encourage walking and cycling.

Corporate Parenting

- 9.3 A core requirement of a successful procurement exercise will be securing the delivery of jobs and skills and employment opportunities for young people. Looked After Children (LAC) and Care Leavers will be identified as priority groups that should benefit from these opportunities.

Staffing and accommodation

- 9.4 The procurement exercise will be managed by the Neighbourhood Regeneration team with support from a cross-departmental steering group and external commercial and legal advisors. Arrangements for managing the Development Agreement once agreed are set out in section 2.22.

Responsible Procurement

- 9.5 Lambeth's Responsible Procurement Policy has been fully considered and its priorities incorporated into or adapted to suit the nature of the procurement exercise.

Good Quality Jobs with Fair Pay and Decent Working Conditions

- 9.6 Accreditation to the Living Wage Foundation and/or a contractual commitment to pay the real London Living Wage or Living Wage (for those outside London) to employees, contractors and sub-contractors directly paid for by the partner is expected. It is also expected that a partner will require this of external organisations it employs in the course of delivering the contract but does not pay the wages of directly. Contractual commitments and delivery mechanisms to ensure Living Wage Jobs and Buildings are delivered as part of the workspace are also sought as part of the development agreement.

Partners will be asked to indicate how they are ensuring they provide good quality jobs and decent working conditions as part of their submissions. It is expected that the partner will commit to working with contractors and sub-contractors who also uphold these standards. The Modern Slavery Act (2015) will apply to this procurement exercise and be translated into the final contractual agreement. Equally, it will be required that partners evidence that they allow employees freedom to join a trade union and will not discriminate against those who belong to one.

Quality Apprenticeships, targeted Employment for Lambeth residents and Lambeth Priority Group

- 9.7 An Employment and Skills Strategy is required that delivers 25% or more of construction and end-user jobs for local residents and ensures opportunities are targeted toward priority groups (such as Black, Asian & Minority Ethnic residents, long-term unemployed, care leavers and young people). It should also feature a clear offer and delivery mechanisms for training and skills development opportunities targeting local schools, colleges and wider local stakeholders/community groups.

Recruitment of local people into opportunities arising from the development will be supported by employment and training programmes delivered by the Council and local partners, including Opportunity Lambeth.

Reduce Emissions: Lambeth Council has a commitment to being Zero Carbon by 2030

- 9.8 An approach to sustainability that provides high level of confidence around approach to delivering net zero development is required as part of the procurement exercise.

Single Use Plastics

- 9.9 Partners will be required to articulate their approach to sustainability and set out an approach to construction materials/methodology aligning with the nature of the procurement exercise.

Positive Health and Wellbeing

9.10 The nature of the procurement exercise means physical improvements that contribute toward positive health and wellbeing are a priority – this includes high-quality homes and workspace as well as street improvements to support healthier and safer streets for the local community.

Other Offers (Innovation)

9.11 There is considered to be scope within this procurement exercise to secure innovative offers that are relevant to the local area. This includes;

- Corporate social responsibility proposals for the operational phase of the development.
- A clear mechanism for securing future workspace tenants and allocating space – across both market and affordable workspace provision – that will support target sectors, local businesses and secure improved equalities, diversity and inclusion outcomes.
- Support for community capacity building work through commitments around partnership, engagement and co-design in both the development of proposals for the site and the operational stages of the development.
- Clear offers around initiatives that can improve equalities, diversity and inclusion outcomes.
- Activities and initiatives that go above and beyond what is required by the strategies – e.g. providing specific commitments to supporting better mental health and wellbeing.

10. TIMETABLE FOR IMPLEMENTATION

Activity	Proposed Date
Date Incorporated on Forward Plan	19/10/2020
Cabinet	08/02/2021
Issue of FTS Notice, SSQ, ITT	Mid-March 2021
Issue of Invitation to Tender	Mid May 2021
Invitation to participate in negotiation	July 2021
Negotiation sessions	August 2021
Meet the bidder/community events	September 2021
Further negotiation sessions (if required)	September 2021
Invitation to submit final bids/best and final offers	October 2021
Assessment of final bids	November 2021
Procurement Category Board	January 2021
Full Cabinet (Contract Award)	March 2022

AUDIT TRAIL

Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Cllr Matthew Bennett	Cabinet Member for Planning, Investment and New Homes	08.12.20	08.12.20	Throughout
Sara Waller /Eleanor Purser, Co-Strategic Directors, Sustainable Growth and Opportunity	Sustainable Growth and Opportunity	07.12.20	14.12.2020	Throughout
Tom Branton, Director Regeneration and Housing Growth	Sustainable Growth and Opportunity	01.12.20	03.12.20	Throughout
Matthew Gaynor, Assistant Director Finance	Finance and Property	01.12.20	02.12.20	Throughout
Greg Carson, Legal Services	Legal and Governance	01.12.20	03.12.20	Section 4
Maria Burton, Democratic Services	Legal and Governance	01.12.20	02.12.20	Throughout
Rachel Willsher/Michael Lemmens - Procurement	Procurement	01.12.20	12.01.2021	Throughout
Hannah Jameson, Assistant Director Sustainable Growth & Climate Change Response	Sustainable Growth and Opportunity	01.12.20	11.12.20	Throughout

REPORT HISTORY

Original discussion with Cabinet Member	04.09.20
Report deadline	27.01.20
Date final report sent	27.01.20
Part II Exempt from Disclosure/confidential accompanying report?	Yes
Key decision report	Yes
Date first appeared on forward plan	19.10.20
Key decision reasons	2. Expenditure, income or savings in excess of £500,000. 3. Meets community impact test.
Background information	Lambeth Local Plan Lambeth Economic Resilience Strategy Brixton Creative Enterprise Zone Action Plan Brixton Economic Action Plan Lambeth Commercial Office Baseline Report, October 2020 Cabinet, 20 July 2020: Financial Planning and Medium Term Strategy Report 2020/21 to 2024/25 Future Use of International House CMDR Pop Brixton Lease Extension ODDR
Appendices	Appendix 1 - Sites to be included in the procurement exercise Appendix 2 – Equalities Impact Assessment

