

**Cabinet Member Delegated Decision**

**Decision Due:** 29 April 2016

**Report Title:** Decision to Award Development Management Contracts for the Three Estates: Knight's Walk, South Lambeth and Westbury (Westbury)

**Wards:** Clapham Town

**Report Authorised by:** Sue Foster, Strategic Director, Neighbourhoods and Growth

**Portfolio:** Cabinet Member for Housing: Councillor Matthew Bennett

**Contact for enquiries:** Julian Hart, Estate Regeneration and Housing Delivery Programme Manager, 07799 775362 [JHart@lambeth.gov.uk](mailto:JHart@lambeth.gov.uk)

**Report summary**

This report seeks approval to appoint Tibbalds Campbell Reith as lead consortium member for the development management team for Westbury Estate. A two stage procurement process has been undertaken by the Estate Regeneration Team working with Airey Miller, the Council's commercial advisers. The preferred bidder returned the highest score through a 50% price / 50% quality assessment.

**Finance summary**

The Development Management contract with Tibbalds Campbell Reith is for a fixed price of £4,118,000 for the full contract sum including contingency and professional fees. Project Stage 1 will be up to the point of securing planning consent and confirmation of a Compulsory Purchase Order as appropriate; in design terms, this represents RIBA stages 1-3 inclusive. The second stage involves acting as the Council's agent to help procure and then manage the construction of the project (RIBA stages 4-7). The Development Management Agreement to be entered into with Tibbalds Campbell Reith will have a break clause for each RIBA stage.

An in principle budget of £25,000,000 has been allocated to invest in the estate regeneration programme. This is being drawn down on an annual basis. Through this, a capital budget is available that is sufficient to cover the costs of this contract for the financial year 2016/2017.

**Recommendations**

- (1) To approve the appointment of Tibbalds Campbell Reith as the development management team for Westbury Estate, for a fixed price of £4,118,000, to commence work during Spring 2016 with an estimated completion date in 2021.
- (2) To include in the Development Management Agreement a break clause at each RIBA stage to enable review of project progress and limit Council's liability if progress of project is not proceeding as planned.

**Reason 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:

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

## **1. Context**

- 1.1 On 8 December 2014 the Cabinet approved the recommendation in the report Building the homes we need to house the people of Lambeth (108/14-15), which set out and confirmed the Council's commitment to 1,000 extra homes at Council rent levels and recommended that estate regeneration forms an important part of the strategy to achieve this. The December 2014 report stated that Lambeth's strategy would include an ambition to deliver a net addition in the homes for council rent, homes for subsidised rent and affordable home ownership. The role of the local authority being to fill the gaps that the private market cannot. This will mean an entirely new model of housing finance and delivery.
- 1.2 The Cabinet also approved that the following six estates form the Council's estate regeneration programme: Central Hill, Cressingham Gardens, Fenwick, Knight's Walk, South Lambeth and Westbury.
- 1.3 On 9<sup>th</sup> November 2015 the Cabinet authorised the redevelopment scenario for Westbury. Cabinet also authorised officers to procure a development management team to enable the Council to progress the redevelopment option.
- 1.4 The strategy that has been confirmed through these Cabinet Reports is for the Council to deliver directly the early stages of these large projects, thereby de-risking the projects, retaining control of quality and enabling the Council to maintain a direct relationship with residents. When design, planning and land assembly has been achieved for each project, then the Council retains the option to consider engaging a development partner or can seek funding to deliver construction of the projects directly.
- 1.5 This strategy involves procuring development management teams, that is teams that can provide a full development delivery service. This is not just doing design work, such as producing a masterplan, but involves preparing a deliverable and viable masterplan. The teams will also be responsible for producing a planning strategy and then to seek to secure planning consent as the Council's agent. The rationale for procuring a comprehensive development management service, as opposed to simply a design service, is that this enables the Council both to leverage in private sector expertise and to have a relatively stream-lined internal client role.
- 1.6 The proposed approach for procuring the development management teams for each estate was authorised through the 30<sup>th</sup> July Procurement Strategy Report.
- 1.7 The purpose of this report to to seek approval on the recommendation for the appointment of the development management team for Westbury estate following the procurement process as outlined in 1.5 above.

## **2. Proposal and Reasons**

- 2.1 Tibbalds Campbell Reith received the highest score through a 50% price / 50% quality assessment following a two stage procurement process. On this basis it is recommended that approval is given to award the contract to Tibbalds Campbell Reith.

2.2 Tenderers were interviewed by a panel which included resident representation on 10<sup>th</sup> December 2015 to further test the qualitative elements of each proposal. In addition an exhibition was held where the key non-technical elements of each bidders proposal could be scored by residents.

2.3 A detailed Part 2 tender assessment report is included as a separate appendix. This report includes commercially sensitive information and is exempt from disclosure.

### **3. Finance**

3.1 The value of the development management contract will be £4,118,000, which is less than the estimate identified in the Procurement Strategy Report due to the reduced scope of this project.

3.2 Funding for this commission has been identified and included within the current Affordable Housing Capital Programme 2014/15 to 2017/18 (Capital Scheme reference 915361 - Affordable Housing Resourcing New Supply).

3.3 Delivery of the commission and spend will be monitored by the relevant project manager and reported regularly to the Estate Regeneration Board.

### **4. Legal and Democracy**

4.1 The Public Contracts Regulations 2015 apply to the proposed award and the Council is obliged to publish a contract notice in the Official Journal of the European Union if the value of the services exceeds £164,176. However, there is no requirement to publish a notice when awarding a contract through a mini-competition from a properly procured framework which has been procured in compliance with the regulations provided the Council is named, or is part of an identifiable group cited, in the OJEU notice published in respect of the framework.

4.2 As the author has explained in the report, the services were tendered through a mini-competition accessing the Homes and Community Agency (HCA) multi-disciplinary panel framework, which runs to 2018. Contracts awarded off a framework may exceed the life of the framework where this is appropriate to the circumstances, reflects value for money and is not intended to circumvent the Regulations. Provided the requirements for accessing this framework set out in 4.1 are met, doing so by properly procured mini-competition will be compliant with the requirements of both the Council's Contract Standing Orders and the Public Contracts Regulations 2015. The evaluation criteria should be the same as that on which the framework was awarded, but weightings may be altered so long as this is not substantial.

4.3 The Council must adhere to the provisions of the framework in awarding contracts accessing the framework, and the contract must be tailored within these bounds. It is stipulated within the framework that when placing an order or awarding a contract the framework agreement OJEU reference number must be quoted. When awarding a contract procured through a mini-competition accessing a framework agreement, the authority accessing is advised to observe a standstill period and must in any event notify all suppliers of the outcome of the mini-competition.

- 4.4 The Public Services (Social Value) Act 2012 applies to framework agreements and to contracts accessing them.
- 4.5 The authority to award contracts in excess of £1,000,000 in the aggregate is vested in the Cabinet Member for Housing in Consultation with the Council Leader, following recommendation by the Procurement Board.
- 4.6 This proposed key decision was entered in the Forward Plan on 19<sup>th</sup> February 2016 and the necessary 28 clear days' notice has been given. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet Member. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of five clear days - the call-in period – must then elapse before the decision is enacted. 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 There has been an extensive programme of consultation and engagement on the Westbury Estate which has provided clear and consistent messaging to the residents and provided opportunities for residents to shape the masterplan objectives agreed in the 9<sup>th</sup> November Cabinet Report which will inform the development management process to be taken forward by the appointed development management team. The process by which the design and engagement process informed the feasibility stage of the regeneration is set out in the 9<sup>th</sup> November Cabinet Report.
- 5.2 The communication and engagement principles that are being followed to progress the regeneration of the Westbury estate are set out below
- Keep uncertainty for residents to a minimum;
  - Ensure residents have an understanding of the bigger picture;
  - Make it clear to residents that their voices have been heard by decision makers; and,
  - Ensure that residents have the information they need to make the best choices about their families' futures.
- 5.3 As part of the procurement process for the appointment of the development management team there was direct resident involvement through representation on the panel for the development management team interviews, and through an exhibition at which each of the potential development management teams displayed the key elements of the qualitative elements of their proposals.
- The stages of resident involvement were as follows:
1. **Informing residents** about the procurement process – this was done through the consultation process as part of the feasibility stage of the project and through specific communication relating to the development management exhibition and interviews .
  2. **Resident Involvement on procurement interviews** – there were three resident representatives on the interview panel, selected on the basis of representation for each tenure (tenant and leaseholder). Selection was done as part of the on-going consultation process and in discussion with the resident steering group and the TRA.

3. **Capacity building** – during October capacity building was undertaken with the selected resident representatives to enable them to participate effectively in the procurement interviews. This was offered to both the representatives on the interview panel plus any other residents who wished to be involved.
4. **Exhibitions** – an exhibition took place which allowed both residents to meet with the prospective development management teams and vice versa – each resident was able to complete a questionnaire to feed into the evaluation process..

5.4 The contract (the draft Development Management Agreement) that was released as part of the ITT process included a requirement that all employees employed through this contract must be paid a minimum of the London Living Wage.

## 6. Risk management

6.1 Part of the specification of works is for the development manager and design team to advise the council on risk.

<b>Risk</b>	<b>Risk Description</b>	<b>Mitigation(s)</b>	<b>Status (RAG)</b>
Resident Apathy	Residents do not engage and actively oppose any option which involves demolition and new build	Co-production and on-going involvement to ensure that proposals reflect local wishes as far as it offers value for money and supports the Council's Community Plan objectives. Effective communication and consultation strategies and action plans. Key Guarantees have been drafted for Tenants and Homeowners to give them certainty about how the regeneration of estates will affect them.	Amber
Shared Vision	Lack of a clear vision for the project.	Development of an initial project brief which reflects the aspirations and objectives of local people; the project brief will include quality objectives, project outcomes, sustainability aspirations, project budget. These are being termed "masterplan objectives"	Green\Amber (depending on estate)
Design Responsibility	Clear decision making in signing off designs	Prepare a design responsibility matrix.	Green
Decision Making	Clear roles and responsibilities of partners	Better Homes Board has been established, Chaired by the Lead	Green

		<p>Member for Housing and Regeneration.</p> <p>Steering Groups are being established on each estate.</p>	
Planning	The project fails to secure planning permission	Early discussion has been undertaken with the Planning Authority. A PPA is currently in place across all the projects. This will be converted into PPAs for each project at an appropriate time.	Green
Site Assembly Risk	The project fails to secure vacant possession of the site	<p>CPOs are likely to be required for many, if not all, the estates. This is budgeted for.</p> <p>In the meantime, a budget has been secured to enable commencement of buy back of RTB leaseholds.</p>	Amber (until initial negotiations completed)
Ground Risk	Risks identified in the ground i.e. tunnels	Topographical and underground services surveys will be carried out to minimise risks.	Amber (until surveys completed)
Construction risks	Cost over runs etc	<p>Share risk with contractor;</p> <p>Incentives within the contract with the development manager to ensure no cost over runs on construction element of the project.</p>	Amber (until contract in place with contractor)
Council guarantees rental income stream	The Council will need to guarantee the rental income stream and any RPI increases required by funders for 35 to 45 years	<p>Study to be commissioned on long term strength of the rental market in Lambeth and the surrounding area.</p> <p>Financial model will continually assess the risk profile.</p> <p>Flexibility within the scheme to change in response to the market i.e. flip to private sale.</p>	Amber
Build costs exceed funding	Build costs over run.	<p>Agree detailed spec and budget.</p> <p>Development manager incentivised to prevent construction cost overruns.</p>	Amber

Mature Client	Multiple or significant changes to the project which affect delivery	Clear terms of engagement for Members, officers and partners.	Amber
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## 7. Equalities impact assessment

- 7.1 An Equalities Impact Assessment has been undertaken for the Westbury Estate Regeneration Project and was included as Appendix F to the 9<sup>th</sup> November Cabinet Report.

## 8. Community safety

- 8.1 New-build homes on the site have been specified using the *Secured by Design* Standard and the Police Design Out Crime officer will be consulted through the design and planning process. There will be regular contact with the Community Safety Service throughout the construction programme in order to address any further design issues which arise in construction.

## 9. Organisational implications

- 9.1 None

## 10. Environmental

- 10.1 Environmental sustainability is considered a key priority in both the design and delivery of new homes and places in the Estate Regeneration Programme. Officers are developing a Design Brief for the programme which will include its sustainability priorities as well as the statutory guidance that is to apply.

## 11. Procurement

- 11.1 This report follows the Gateway 2 Procurement Strategy Board Report (dated 30th July 2015) and seeks approval to appoint Tibbalds Campbell Reith as lead consortium member for the development management team for the Westbury Estate. A two stage procurement process has been undertaken by the Estate Regeneration Team working with Airey Miller. The preferred bidder returned the highest score through a 50% price / 50% quality assessment.

## 12. Timetable for implementation

- 12.1 Indicative timetable (subject to change):

Activity	Proposed Date
Report published (requires five clear days before decision date)	21 April 2016
Report to be Signed	29 April 2016
Call-in deadline date (five clear days later)	9 May 2016
Contract award (earliest possible award date)	10 May 2016
Contract commencement or date of implementation	11 May 2016

<b>Audit trail</b>				
<b>Consultation</b>				
<b>Name/Position</b>	<b>Lambeth directorate/division or partner</b>	<b>Date Sent</b>	<b>Date Received</b>	<b>Comments in para:</b>
Councillor Matthew Bennett	Cabinet Member for Housing	14.4.16	21.4.16	
Sue Foster, Strategic Director	Neighbourhoods and Growth	14.4.16	21.4.16	
Mike Pocock, Director, Capital Projects	Strategic Housing, Regeneration and Communities	8/2/16	8/2/16	All
Krish Angamuthu, Finance	Finance, Corporate Resources	16/3/16	24/3/16	All
David Thomas, Legal Officer	Corporate Resources	16/3/16	22/3/16	4
Maria Burton, Democratic Services	Corporate Resources	04/04/16	05/04/16	4
<b>Internal Officer Board</b>	<b>Date of meeting</b>			
AIMG	23.02.16			
Procurement Board	03.03.16			
AMCAP	Off-line			
External	n/a			
<b>Report history</b>				
<b>Original discussion with Cabinet Member</b>	14.01.16			
<b>Report deadline</b>	N/A			
<b>Date final report sent</b>	N/A			
<b>Report no.</b>	N/A			
<b>Part II Exempt from Disclosure/confidential accompanying report?</b>	Yes			
<b>Key decision report</b>	Yes			
<b>Date first appeared on forward plan</b>	19.02.16			
<b>Key decision reasons</b>	Expenditure, income or savings in excess of £500,000			
<b>Background information</b>	<p>Cabinet report December 2014  <a href="https://modern.gov.lambeth.gov.uk/documents/s70441/03_Lambeth%20Estate%20Regeneration%20and%20Housing%20Delivery%20-%20December%202014%20v3%20docx.pdf">https://modern.gov.lambeth.gov.uk/documents/s70441/03_Lambeth%20Estate%20Regeneration%20and%20Housing%20Delivery%20-%20December%202014%20v3%20docx.pdf</a>  Cabinet report 9<sup>th</sup> November 2015.  <a href="https://modern.gov.lambeth.gov.uk/documents/s77890/Westbury%20Cabinet%20Report.pdf">https://modern.gov.lambeth.gov.uk/documents/s77890/Westbury%20Cabinet%20Report.pdf</a></p>			

	Invitation to tender Procurement of a Development Manager and Design team September 2015
<b>Appendices</b>	None

**APPROVAL BY CABINET MEMBER OR OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION**

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval:

Signature \_\_\_\_\_ Date \_\_\_\_\_

Post JULIAN HART  
ESTATE REGENERATION AND HOUSING DELIVERY PROGRAMME MANAGER

I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:

Signature \_\_\_\_\_ Date \_\_\_\_\_

Post COUNCILLOR MATTHEW BENNETT  
CABINET MEMBER: HOUSING

Any declarations of interest (or exemptions granted):

Issue Interest declared