



**Cabinet
1 June 2015**

**Report from the Strategic Director of
Regeneration and Growth**

For Action

Wards Affected:
Willesden Green

**Authority to tender contract for the proposed Learie Constantine Centre
redevelopment**

Appendix 1 is Not for publication

1.0 Summary

1.1 This report concerns the redevelopment proposal for the Learie Constantine site at 43-47 Dudden Hill Lane, the principles of which were agreed by the Executive at its meeting of 20th May 2013. This report requests approval to invite tenders in respect of this proposal as required by Contract Standing Orders 88 and 89.

2.0 Recommendations

2.1 That Cabinet approve inviting tenders for the proposed Learie Constantine site redevelopment on the basis of the pre - tender considerations set out in paragraph 3.15 of the report.

2.2 That Cabinet approve the evaluation of tenders referred to in 2.1 above on the basis of the evaluation criteria set out in paragraph 3.15 of the report.

2.3 That Cabinet delegate authority to the Operational Director of Property and Projects (Regeneration and Growth), in consultation with the Chief Finance Officer, to award the contract to the successful tenderer and to agree the final terms of the development agreement and leasing structure between the Council, the Learie Constantine West Indian Association and the successful tenderer (the developer) provided the receipt generated is sufficient to cover the cost of a new community centre.

2.4 That Cabinet grant an exemption from Contract Standing Order 104 (b) to permit evaluation of bids on the basis of price alone, which is considered

appropriate for meeting the Council's aims and objectives in relation to the site.

3.0 Detail

- 3.1 The Learie Constantine West Indian Association (Association), established since 1972, is a local community organisation that for some time has wanted to extend and improve its community centre at 43-47 Dudden Hill Lane to better suit its needs.
- 3.2 The Association holds a long leasehold interest in the premises (Site A - appendix 3), which they purchased from the Council under lease dated 9th October 1998 for the term of 99 years from 1st April 1997, of which approximately 84 years remain. The Council owns the freehold interest of the site.
- 3.3 The Association is a community organisation that provides services to the local community, particularly to Black and Minority Ethnic groups. The community centre is considered to be a valuable facility for the local community.
- 3.4 The site comprises a single-storey brick built end of terrace property with a car park to the rear, located on the corner of Villiers Road and constructed in the 1930s. The potential redevelopment area of the demised site is circa 0.067 hectares. The community centre building is not listed and does not fall within a conservation area.
- 3.5 The community centre building is considered to be reaching the end of its useful economic life and would benefit from renewal. Redevelopment of the community centre building could be supported through redevelopment of the site for a new mixed-use (and mixed-tenure) scheme.
- 3.6 The mixed-use scheme would provide the Association with a new community centre in a single modern building on the ground floor and provide residential accommodation on the first floor for rent or sale by the developer. The scheme would be subject to planning consent, which would need to be obtained by the developer.
- 3.7 The site at 43-47 Dudden Hill Lane adjoins Council owned land and buildings at 39 and 41 Dudden Hill Lane (Site C – appendix 3), which comprises two vacant properties requiring refurbishment and modernisation (a two bedroom property currently split into two flats with one bedroom each and a 5 bedroom property respectively).
- 3.8 Based on an architectural capacity assessment, 43-47 Dudden Hill Lane (Site A) could be developed in isolation of 39 and 41 Dudden Hill Lane (Site C) and would accommodate a new community centre in a single modern building on the ground floor and approximately 13 residential flats above.
- 3.9 The land at Site C could be added to Site A to create Site B (appendix 3),

which would form a larger alternative development of 0.087 hectares, accommodating a new community centre and approximately 19 flats. It is proposed that developer proposals are invited for the development scheme of 43-47 Dudden Hill Lane in isolation and as part of a wider development scheme incorporating 39 and 41 Dudden Hill Lane, and that both options are considered and assessed by the Council in accordance with the valuation set out in appendix 1.

- 3.10 Following Executive approval of the proposed redevelopment strategy at its meeting on 20th May 2013, the Council and the Association have agreed a Memorandum of Understanding that sets out 'in principle' the approach to the redevelopment, in which the Council will continue to own the freehold of the site.
- 3.11 The Council will procure a developer partner to assist in the development of the site. The Council will sell a long leasehold interest in the site of approximately 250 years in length to the developer (that will be secured through a development agreement) and secure a leaseback in the new community centre at a peppercorn rent. The Council will grant a new sub lease to the Association in accordance with the agreed Memorandum of Understanding i.e. under similar lease terms and years left to run as the Association's existing lease and the developer will build, operate and manage the new homes. As part of the development agreement, the developer may be asked to provide the Association with interim space within alternative premises so that the Association can continue with its activities for the duration of the redevelopment.
- 3.12 The Council will seek to maximise the number of affordable residential flats delivered as part of the scheme, provided the land receipt generated is sufficient to cover the cost of the new community centre (appendix 1), and secure 100 per cent nomination rights to the affordable homes. Officers are of the view that the objectives of delivering affordable housing and a new community centre on the site are not separate considerations but directly inter-related in terms of what is viable to provide and are therefore better evaluated together under price.
- 3.13 The Association is currently in the process of becoming an incorporated body. Incorporation would provide the Association with an appropriate legal status that would allow the Association to enter into the necessary agreements with the Council for the redevelopment.
- 3.14 Due to delays arising from the negotiations with the Association and delays in the Association becoming an incorporated body, it has not been possible to progress this matter as quickly as Officers would have wished. In order to allow the development contract to commence in October 2015, it is recommended to delegate authority to the Operational Director of Property and Projects (Regeneration and Growth), in consultation with the Chief Finance Officer, to award the contract to the successful tenderer and to agree

the final terms of the development agreement and leasing structure between the Council, the Association and the successful tenderer.

- 3.15 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Cabinet. The Cabinet is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

Ref.	Requirement	Response	
(i)	The nature of the service.	Redevelopment of the Learie Constantine site for a mixed-use scheme.	
(ii)	The estimated value.	See appendix 1.	
(iii)	The contract term.	Approximately 18-24 months with a start on site anticipated by October 2015.	
(iv)	The tender procedure to be adopted.	An Open or Single Stage Procedure.	
v)	The procurement timetable.	Indicative dates are:	
		Adverts placed	1st July 2015
		Deadline for tender submissions (45 days from advert)	17th August 2015
		Panel evaluation and shortlist for interview	24 th August 2015
		Interviews and contract decision	31 st August 2015
		Report recommending Contract award circulated to Operational Director of Property and Projects (Regeneration and Growth) the Chief Finance Officer	7 th September 2015
		Operational Director of Property and Projects (Regeneration and Growth) in consultation with the Chief Finance Officer approval	7 th September 2015

Ref.	Requirement	Response	
		Minimum 10 calendar day standstill period – notification issued to all tenderers and additional debriefing of unsuccessful tenderers	25 th September 2015
		Contract Mobilisation	2 nd October 2015
		Contract start date	9th October 2015
(vi)	The evaluation criteria and process.	<p>1. At selection (pre-qualification stage) shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines by the use of a pre qualification questionnaire to identify organisations meeting the Council's financial standing requirements, technical capacity and technical expertise.</p> <p>2. At tender evaluation stage, the panel will evaluate the tenders against the following criteria:</p> <p>Price: 100 per cent weighting – this will be on the basis of the developer building the new community centre in accordance with the specification and ensuring that 50 per cent of the residential flats built are affordable.</p> <p>Tenderers will be asked to quantify the net land receipt being offered as part of their bids.</p> <p>Tenderers will be required to meet mandatory requirements in order for their bids to be compliant (these mandatory requirements, and the consequence of failing to evidence compliance to the required level, will be set out in the tender documents).</p>	
(vii)	Any business risks associated with entering the	The main risk is the financial viability of the proposed scheme, which can be assessed once the tenders have been received. The	

Ref.	Requirement	Response
	contract.	risks associated with entering into contract will be managed via the development agreements in respect of the site.
(viii)	The Council's Best Value duties.	See sections 4 and 5 below.
(ix)	Consideration of Public Services (Social Value) Act 2012	See Section 8 below
(x)	Any staffing implications, including TUPE and pensions.	See Section 7 below
(xi)	The relevant financial, legal and other considerations.	See sections 4 and 5 below.

4.0 Financial Implications

- 4.1 The estimated value of this works concession contract is shown in appendix 1.
- 4.2 It is anticipated that the cost of the new community centre will be met from the land receipt arising. If the development is not viable from the capital receipt, a further report will be submitted to Cabinet to assess funding options.
- 4.3 The Council and the District Valuation Service have assessed the financial viability of the proposed new scheme. In order for the redevelopment to come forward the Council will need to secure a sufficient land receipt from the developer to fund the redevelopment of the new community centre in accordance with the valuation principles set out in appendix 1.

5.0 Legal Implications

- 5.1 The Council owns the land at 43-47 Dudden Hill Lane freehold with title absolute. The Council also owns the freehold in adjoining land at numbers 39 and 41 Dudden Hill Lane.
- 5.2 As detailed in paragraph 3.11, the intention is to procure a developer partner to develop this scheme. It is considered that the proposed development agreement would be classed as a works concession contract, with the developer funding the cost of works, but together with the Council having the right to profit from the development.
- 5.3 Based on the information contained in appendix 1, the estimated value of this contract is such that this would be classed as a High Value Contract. For High Value Contracts, the Cabinet must approve the pre-tender

considerations set out in paragraph 3.15 above (Standing Order 89) and the inviting of tenders (Standing Order 88).

- 5.4 For the reasons detailed in paragraph 3.14, delegated authority is sought for the Operational Director of Property and Projects (Regeneration and Growth), in consultation with the Chief Finance Officer, to award the contract to the successful tenderer and to agree the final terms of the development agreement and leasing structure between the Council, the Association and the successful tenderer. Once the tendering process is undertaken therefore, Officers will report to the Operational Director of Property and Projects (Regeneration and Growth), explaining the process undertaken in tendering the contracts and recommending award.
- 5.5 Based on the information contained in appendix 1, the estimated value of this contract is not such that the contract would be subject to the requirements of the Public Contracts Regulations 2006 (the "EU Regulations"). However the intention would be to advertise in the Official Journal of the European Union (OJEU), as a minimum, and observe the minimum timescales set out in the EU Regulations.
- 5.6 Contract Standing Order 104 (b) requires tenders for Services to be evaluated and awarded on the basis of the most economically advantageous offer to the Council which is a combination of price and quality criteria. As detailed at paragraph 3.12 however, officers are of the view that it is appropriate to evaluate bids on the basis of price alone. Members are therefore requested to grant an exemption from Contract Standing Order 104 (b) to allow evaluation on the basis of price.

6.0 Diversity Implications

- 6.1 An Equalities Impact Assessment form is provided in appendix 2.

7.0 Staffing/Accommodation Implications

- 7.1 An external contractor will provide the service and therefore there are no implications for Council staff arising from tendering the contract.

8.0 Public Services (Social Value) Act 2012

- 8.1 The Council's duty under the Public Services (Social Value) Act 2012 (the "Act") only applies to Medium and High Value Contracts for services and therefore does not strictly apply to a works concession contract. Officers will however have regard to the desired outcomes of the Act for the proposed procurement, namely consider how what is being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process the Council might act with a view to securing that improvement and whether the Council should undertake consultation.
- 8.2 The nature of the works being procured (delivering a new community centre for use by the Association) naturally aligns with the requirements of the Act,

namely the improvement of the social and environmental wellbeing of the area. This is also the case for the proposal to secure affordable housing on the site. Officers have concluded that it is not appropriate to undertake any consultation and that the only measures appropriate to meeting the requirements of the Act are to operate the Council's usual procurement processes.

9.0 Background Papers

Appendix 1: Valuation

Appendix 2: Equalities Impact Assessment

Appendix 3: Site areas

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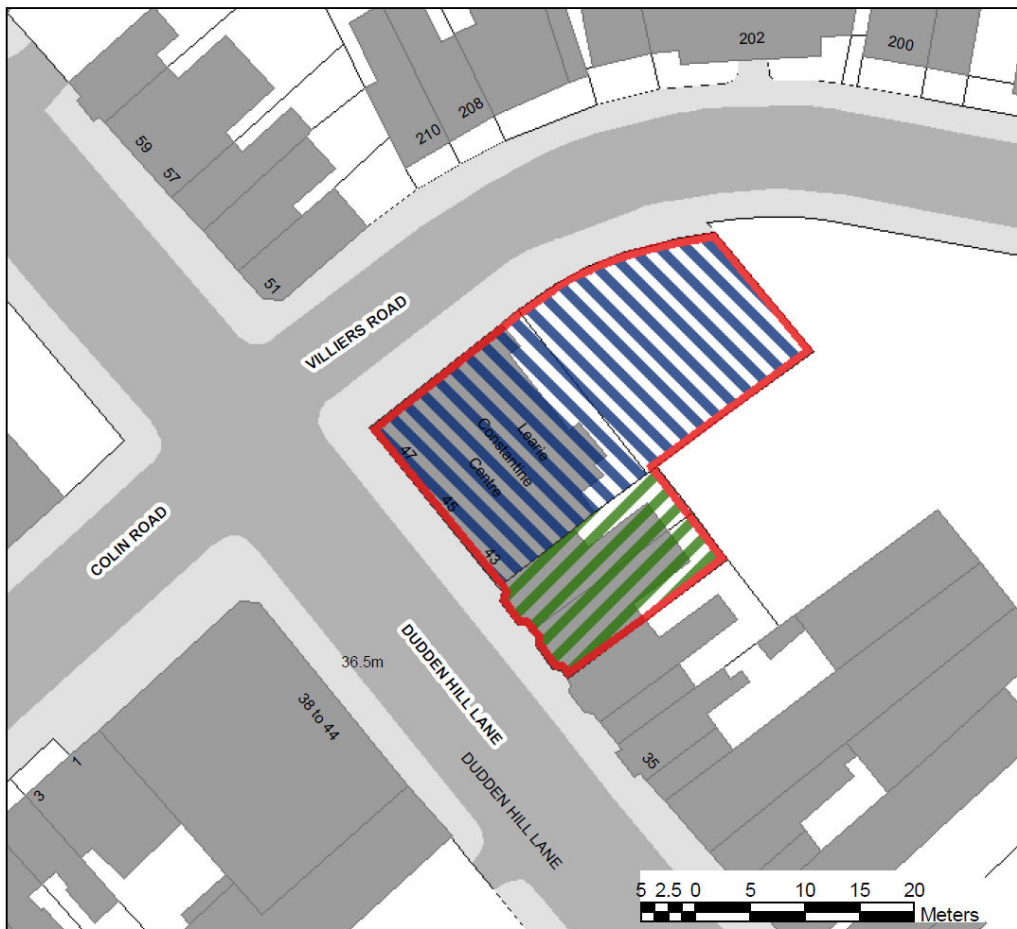
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Director of Regeneration and Major Projects

Appendix 3: Site areas

Appendix 3
Learie Constantine Centre numbers 43-47,
and numbers 39 and 41 Dudden Hill Lane,
London, NW10 2ET.



 Site A  Site B  Site C

 **Brent** **1:500**
Plan to stated scale if printed at A4.

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