



Executive
14 March 2011

**Report from the Director of
Regeneration and Major Projects**

For Action

Wards affected:
Kilburn

**South Kilburn Regeneration: Procurement of Developer
Framework and regeneration update**

Appendices 1 and 4 are Not for Publication

1.0 Summary

- 1.1 This report seeks approval to finalise the procurement of the South Kilburn Regeneration Developer Framework. It also seeks approval to progress to planning application a design for two sites within phase 2 of the regenerations and updates on the progress of the wider regeneration of South Kilburn.

2.0 Recommendations

- 2.1 That the Executive agrees to the establishment of the South Kilburn Regeneration Developer Framework and to the appointment of those developers detailed in paragraph 3.5 for a period of 4 years from the framework commencement date.
- 2.2 That the Executive notes Officers' intention to progress the selection of a design team from the LDA Architecture, Landscape and Urban Design Framework Agreement to take a proposal through to full planning application (RIBA Stage C or D) for the Fielding House and Bronte House sites (Zones 3a and 3b respectively) and to report back to Executive with regard to contract award.
- 2.3 That the Executive notes the wider progress with the regeneration of South Kilburn.

3.0 Detail

- 3.1 Following the agreement to dispose of sites 11a (former Marshall House, Albert Road) and 3c (former Carlton Vale Roundabout), income from land

receipts will be recycled back into the delivery of the remaining phase 1 sites and future phases, therefore sustaining the momentum of the regeneration. A pipeline of “planning approved” development sites will significantly assist the delivery of the regeneration programme as well as fulfilling new housing requirements for existing South Kilburn tenants.

- 3.2 The report to Executive 23rd June 2010 sought authorisation to commence the process of assembling an EU compliant framework of developer partners (the Developer Framework”) to deliver the remaining phase 1 sites, and future sites within phases 2 and 3. Additionally, members approved the assessment criteria for the selection of prospective partners for inclusion on the Developer Framework.
- 3.3 The formulation of the Developer Framework provides the council with flexibility to ensure as far as possible, housing regeneration schemes are viable and deliverable within a challenging and uncertain economic and property environment. It is recognised that there will be uncertainty as regards two important ingredients: HCA grant funding and the rent levels for affordable housing and therefore a balance will need to be achieved between value generation through private tenure housing and the provision of affordable housing to ensure the housing decant needs are covered.
- 3.4 The EU compliant procurement process has entailed the publication of an OJEU notice, the consideration of expressions of interest through the use of a Pre Qualification Questionnaire and Invitations to Tender whereby tenderers used a detailed design of the Cambridge Court and Wells Court regeneration proposal to submit their proposals based upon qualitative and quantitative criteria.

Recommended South Kilburn Developer Framework

- 3.5 Paragraphs 3.6 to 3.12 below outline the procurement process for the Developer Agreement. In summary, officers recommend that the following developer partners are appointed to the Developer Framework:
- Network Housing Group of Olympic Office Centre, 8 Fulton Road, Wembley, Middlesex, HA9 0NU;
 - London and Quadrant of Osborn House, Osborne Road, London, SE3 9DR;
 - Mulalley One Housing Group of Teresa Gavin House, Woodford Avenue, Woodford Green, Essex, IG8 8FA;
 - Catalyst Housing Group of Ealing Gateway, 26 – 30 Uxbridge Road, London W5 2AU;
 - Ardmore First Base Partnership of Byrne House, Jeffreys Road, Brimsdown, Enfield, Middlesex, EN3 7UB; and
 - Genesis Housing Group of Capital House, 25 Chapel Street, London, NW1 5DT

The formulation of the Developer Framework and the scoring of bids against identified qualitative and quantitative criteria is outlined below. Individual

tenderers are identified in Annex 1 with the overall combined scores for the tenderers included within Annexe 2.

Assembly and procurement of the developer framework

- 3.6 Officers published a notice in the Official Journal of the European Union (OJEU) on the 9th of July 2010 to seek expressions of interest for appointment to the Developer Framework. 37 expressions of interest were received in response to the OJEU notice.
- 3.7 To narrow down from the expressions of interest to a selection of prospective partners to whom an invitation to tender (ITT) could be issued, a Pre Qualification Questionnaire (PQQ) was issued to all organisations on 19th July 2010. The PQQ sought information in relation to the following:
- technical knowledge and experience;
 - capability/capacity; and
 - organisational and financial standing

The questionnaire responses were evaluated using a scoring weighting agreed in advance. Organisations that were unable to achieve a specific rating against identified scoring criteria were excluded from the evaluation.

- 3.8 Having received responses to the PQQ, officers issued an ITT to 6 organisations on the 11th November 2010. The OJEU notice envisaged that between 8 and 15 organisations would be invited to tender, but in the event only 6 organisations that otherwise achieved the requirements of the PQQ were able to demonstrate adequate technical ability to deliver and manage complex mixed tenure housing projects and with locally based neighbourhood management. The ITT was based upon the proposed regeneration of the Cambridge Court and Wells Court sites. This allowed tenderers to answer questions regarding their approach to contributing to regeneration in South Kilburn. It also provided a basis for tenderers to “price” how they would build the development and apply overheads and profit to the cost of affordable housing and revenue derived from market housing. Soon after this, the council hosted a “*bidder’s forum*” day on the 17th November 2010 so that prospective tenderers could seek information and clarification from council officers.
- 3.9 The 6 tenderers submitted tender documents to the council on the 14th of January 2011 and these were subsequently scored by a panel against qualitative and quantitative criteria on a 60% to 40% basis respectively. The panel consisted of representatives of South Kilburn residents, The South Kilburn Partnership, the Homes and Communities Agency (HCA) and Brent Council officers. Consultant assistance was provided for the purposes of real estate and development cost pricing.
- Qualitative criteria*
- 3.10 Panel members ascribed scores to the 6 tenders in relation to qualitative criteria. The headline criteria and the more detailed criteria under them together with scoring values are detailed in Annexe 3. Having completed

individual scores, the panel then met on the 24th January 2011 to agree a preliminary consensus score. Questions for clarification were also sought for subsequent interviews with the tenderers. Scoring was reviewed following the interviews. The qualitative criteria represented a possible 60 of the total possible 100 marks available to each tender. The 60 marks were aggregated across 8 categories encompassing:

- Vision for South Kilburn
- Design quality
- Delivery of housing development
- Housing management
- Public realm and neighbourhood management
- Resident liaison
- Environmental sustainability /sustainable communities
- Sales and marketing

Quantitative criteria

3.11 The price or quantitative criteria were tested in relation to the tenderers' proposals for the build of the Cambridge Court and Wells Court. The analysis of the quantitative criteria considered the tenderers pricing of build cost per m², abnormal costs (capped as maxima until the 31st December 2011) and overhead and profit on build cost of affordable housing and revenue of housing for market sale (capped as maxima for the duration of the framework). There were 40 marks available for the quantitative criteria split as follows:

- 10 marks for build costs
- 20 marks for developers' overhead and profit on costs (of affordable housing)
- 10 marks for developers' overhead and profit on revenue (from market housing)

The information provided by the tenderers against the quantitative criteria is included within Annex 4.

Combined Qualitative and Quantitative criteria

3.12 The results of the scoring and ranking of the criteria resulted in an overall score out of 100 marks. The agreed scoring threshold for securing a place on the framework was 40 marks from the combined qualitative and quantitative criteria. Therefore all 6 tenderers secured a place on the developer framework. The scoring results are included within Annexe 2.

Use of the developer framework

3.13 The overhead and profit on cost and revenue specified by the tenderers within their tender submissions is capped and held for the duration of the Developer Framework, until 2015. As and when the council seeks to dispose of the

development opportunities, it will host a mini competition among the framework partners who will bid to be appointed to build and manage the development site, under a 999 year lease from the council, who will remain the freeholder.

- 3.14 It is anticipated that for the purposes of the mini competition under the Developer Framework, the scores of the bids will again be considered against qualitative and quantitative criteria on a 60:40 basis respectively, as set out in Schedule 1 part 1 of the Developer Framework Agreement, although the council reserves the right to alter the relative weightings to match the particular requirements of the scheme.
- 3.15 The tenderers will in effect price the development proposals and make an offer for the land to the council, the receipt of which will be recycled back into the on going regeneration of South Kilburn.

Progression of Fielding House and Bronte House to detailed planning application.

- 3.16 With the remaining Phase 1 sites of Cambridge Court, Wells Court, and Ely Court and Bond House and Hicks Bolton House now submitted to planning (see paragraph 3.21 below), officers recommend that to continue to provide the necessary decant capacity to maintain momentum with the regeneration of the estate, design work commences upon two sites within phase 2, namely Fielding House (Zone 3a) and Bronte House (Zone 3b).
- 3.17 Due to proximity to Kilburn Park tube station, and adjacent private housing along Kilburn Park Lane, these sites also have the potential to deliver a significant amount of private dwellings that will help to both re-dress the tenure balance of South Kilburn and generate further capital receipts to maintain the cashflow of the scheme overall.
- 3.18 In order to progress the design work, Officers intend to utilise the LDA Architecture, Landscape and Urban Design Framework Agreement, let via a competitive tender process to identify an appropriate design team to be appointed to take a proposal through to full planning application (RIBA Stage C or D), with payments on a staged basis pending sign-off by the South Kilburn Project Board at each stage. Executive authority will be sought for their appointment given that the appointment is likely to be a High Value Contract under the Council's Contract Standing Orders and Financial Regulation.

Wider progress of the South Kilburn Regeneration

- 3.19 Construction is now underway on the former Marshall House site at Albert Road for 153 new homes and at the Carlton Vale Roundabout site for 133 new homes.

- 3.20 Officers have also submitted planning applications for the redevelopment of the final sites within phase 1 of the regeneration programme. At Cambridge Court, Wells Court and Ely Court, a planning application has been submitted for a total of 144 new homes. At Bond House and Hicks Bolton House a planning application has been submitted for 64 new homes, a new public open space and a small convenience store.
- 3.21 Executive approvals were obtained on 23rd June 2010 and 15 November 2010 the Compulsory Purchase of property interests to facilitate the delivery of the remaining phase 1 sites. The council has progressed with the preparation of the Compulsory Purchase Order and has prepared a Statement of Reasons to be submitted to the Secretary of State. It is anticipated that there will be the requirement for a Public Inquiry and this is currently expected to be held towards the end of this year.

4.0 Financial Implications

Use of the Developer Framework

- 4.1 Through the use of the Developer Framework, the council will host mini competitions for the selection of partners for the development sites and the consideration of the selected partner will include the land offer made to the council. Based on the sales values secured for Albert Road and Carlton Vale sites, it is estimated that the remaining Phase 1 sites to be taken forward in 2010/11 could realise substantial capital receipts.
- 4.2 Clearly the current economic climate is one of uncertainty, not least regarding continuing depressed sales values and reductions in grant funding for affordable housing. Nevertheless, officers remain confident that the overall phasing strategy can be sustained into future phases.

Appointment of design team for Fielding House and Bronte House

- 4.3 As detailed within paragraph 3.19 above, the cost of progressing a planning application for the sites through the appointment of a design team is likely to be in excess of the High Value Contract threshold under the Council's Contract Standing Orders and Financial Regulation and award of a contract will require Executive approval. The cost of development will be met from the overall resource envelope for the regeneration of South Kilburn, specifically including land receipts from Albert Road (Zone 11a) and Carlton Vale Roundabout (Zone 3c). This delivery strategy has been agreed and endorsed by the Homes & Communities Agency, and is a condition of their grant funding for both the Albert Road and the Carlton Vale roundabout sites.

5.0 Legal Implications

- 5.1 The estimated value of the Developer Framework over its lifetime is higher than the EU threshold for Works and its establishment is therefore governed by the full application of the Public Contracts Regulations 2006 (the EU

Regulations). The Developer Framework has therefore been procured in accordance with EU Regulations and specialist advice has been sought from Trowers & Hamlins the Council's legal advisors on this project. The Developer Framework is subject to the Council's Contract Standing Orders in respect of High Value contracts and Financial Regulations.

- 5.2 As this procurement is subject to the full application of the EU Regulations, the Council must observe the requirements of the mandatory minimum standstill period imposed by the EU Regulations before the Developer Framework Agreement can be concluded. The minimum period is 15 days where the Council notifies bidders of its decision by post or 10 days where the Council gives notice by electronic means.
- 5.3 The requirements include notifying all tenderers in writing of the Council's decision to conclude the Framework Agreement and the reasons for its decision including an explanation as to the characteristics and relative advantages of the successful bids and the successful bidder's scores (as well as the score of the recipient of the notice).
- 5.4 The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council's decision if such challenge is justifiable. However if no challenge or successful challenge is brought during the period, at the end of the standstill period the Council can issue a letter of acceptance to the successful tenderers and the Framework Agreement can be entered into.
- 5.5 The EU Regulations not only regulate the establishment of the framework agreement, they also prescribe rules and controls for their procurement and use. Once properly established, contracts may be called off under the framework without the need for them to be separately advertised and procured through a full EU process. There are however strict rules that apply to the call-off process to ensure fairness and transparency and these have been incorporated into the call-off procedure for the Developer Framework.
- 5.6 As indicated in paragraph 3.13, it is intended to use a mini competition procedure to select providers appointed under the Developer Framework for development opportunities. Where any call off contract is classed as a High Value contract for the purposes of the Council's Contract Standing Orders and Financial Regulations, Executive approval will be sought for its award.

Appointment of design team for Fielding House and Bronte House

- 5.7 As advised at paragraphs 3.16 to 3.19 of the report, the intention is to procure Architects under an appropriate EU Framework Agreement. Where such frameworks have been established pursuant to EU Regulations, contracts may then be called off under such framework agreements without the need for them to be separately advertised and procured through a full EU process.
- 5.8 The Council's Contract Standing Orders state that no formal tendering procedures apply where contracts are called off under a Framework Agreement established by another contracting authority, where call off under the Framework Agreement is recommended by the relevant Chief Officer

provided that the Director of Legal and Procurement has advised that the Framework Agreement is legally permissible and that approval has been obtained from the Director of Finance. As detailed at paragraph 3.19, as the appointment of Architects is likely to be in excess of the High Value Contract threshold under the Council's Contract Standing Orders and Financial Regulations, the award of a contract will require Executive approval.

6.0 Diversity Implications

- 6.1 South Kilburn is a designated New Deal for Communities area and as such all interventions are specifically targeted at those people who suffer disadvantage in society. South Kilburn Partnership has a Race & Equality strategy, and through its widening participation theme seeks to find ways of involving and engaging with all local residents and particularly those who traditionally are 'hard to reach'. There has been and will continue to be widespread consultation and community engagement as proposals for the physical regeneration of the area are developed and delivered.
- 6.2 At a project level, each South Kilburn Partnership sponsored and supported project is subject to a full and independent appraisal undertaken by a panel of local residents and relevant officers. Part of the appraisal process is to test each activity against the Partnership's Race & Equality strategy to ensure full compliance. In line with the Council's Equality standards, all expenditure is monitored against equalities indicators on a regular basis.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 There are no specific staffing or accommodation implications associated with the proposals contained within this report.

Contact Officers

Alex Hearn
Regeneration and Major Projects
tel: 0208 937 1048
email Alexander.Hearn@brent.gov.uk

Andy Donald
Director of Regeneration and Major Projects