



Cabinet
24 April 2017

**Report from the Strategic Director of
Regeneration & Environment**

Wards affected: Kilburn

**Gloucester and Durham Development Site – South
Kilburn (for Delivery Partner award of contract)**

Appendix 2 is Not for Publication

1 Summary

- 1.1 This report seeks Cabinet approval to delegate authority to the Strategic Director of Regeneration & Environment in consultation with the Lead Member Regeneration, Growth, Employment and Skills to award and enter into a Development and Sale Agreement with a Delivery Partner for the Gloucester House and Durham Court site (shown edged red at Appendix 1).

2 Recommendations

- 2.1 That Members delegate authority to the Strategic Director of Regeneration & Environment in consultation with the Lead Member Regeneration, Growth, Employment and Skills to award and enter into a Development and Sale Agreement with a Delivery Partner, in line with the redevelopment as set out in paragraph 3.5, procured from the GLA London Development Panel for the Gloucester House and Durham Court site (shown edged red at Appendix 1). The delivery partner provisionally selected, subject to the standard caveats around agreeing final contract terms, is Telford Homes Plc.

3 Detail

Background

- 3.1 The Cabinet on the 26 January 2015 resolved the following (in relation to Gloucester House and Durham Court):
- (i) that the Strategic Director of Regeneration and Environment be authorised to undertake a mini competition under the Greater London Authority (GLA) London Development Panel subject to confirmation by the Director of Legal and Procurement that participation in the GLA London Development Panel is legally permissible, to procure a developer partner for the redevelopment of Gloucester House and Durham Court and report back to the Cabinet to secure approval for award of the contract;

(ii) that approval be given to set rent levels for the affordable homes at Gloucester House and Durham Court once complete, at a rent equivalent to the Homes and Communities Agency Target Rent levels;

- 3.2 It should be noted that terminology has changed and that the developer partner is now referred to as a delivery partner.
- 3.3 A detailed planning application for the redevelopment of the site was submitted on 9 May 2014, resolution to grant planning permission was given on 20 August 2014 and a planning decision notice was issued on 23 September 2014.
- 3.4 On 9 May 2014 a Compulsory Purchase Order (CPO) for land surrounding and including Gloucester House and Durham Court was made. The CPO was confirmed by the Secretary of State for Communities and Local Government on 20th February 2015.
- 3.5 The redevelopment of Gloucester House and Durham Court site consists of:
- The demolition of 209 residential units and garages contained within Gloucester House and Durham Court
 - Erection of 236 new residential units - market sale (134 new homes) and affordable social rented (102 new homes)
 - Relocation and improvement of the public open space and play area at the north of the Site
 - New public realm and improved routes through the Site
 - Landscaped private and shared gardens
 - Basement car park providing 91 spaces
 - Space for an energy centre¹ for South Kilburn District Energy System.
 - Market and affordable dwellings including a range of 1 to 4 bed flats and 3 and 4 bed duplex family units.
- 3.6 Pursuant to the January 2015 Cabinet authority, the Council is procuring a delivery partner for the elements of the redevelopment of Gloucester House and Durham Court site detailed in paragraph 3.5 using the GLA London Development Panel framework. The Council has also sought as part of the procurement process to have an option to have 10 Shared Equity units included, at this time the inclusion of these units cannot be confirmed. As part of the regeneration process the Council is acquiring leasehold properties, if these shared equity units are secured they will be offered to South Kilburn leaseholders, who are affected by the South Kilburn Regeneration Programme, to purchase.
- 3.7 The Delivery Partner will be required to build the energy centre structure and include appropriate ducting to allow for installation of the South Kilburn District Energy System and associated pipework out of the energy centre to the surrounding area. The Council will tender a separate contract for delivery of the South Kilburn District Energy System, including the mechanical design and build out of the energy centre. This will be the subject of a separate report to Cabinet in due course.

¹ For the purposes of this report, the Energy Centre is a “box” which will house the infrastructure for the South Kilburn District Energy System. The Civic Enterprise Team are taking forward the delivery of the South Kilburn District Energy System.

Greater London Authority (GLA) London Development Panel (LDP)

- 3.8 The GLA LDP framework has been used for this procurement. The report to Cabinet on 26th January 2015 envisaged that the tender documents would be sent out in spring 2015. Due to delays, associated with the CPO challenge and an internal reassessment of the scheme, the procurement process started in September 2016. A three stage process of 1) Expression of Interest (EOI), 2) Sifting Brief and 3) Mini-Competition has been progressed, with the Mini-Competition stage closing on 20 February 2017. 11 panel members expressed an interest at the EOI stage, 7 panel members submitted at the Sifting Brief Stage, with 5 invited to the Mini-Competition stage. At the Mini-Competition stage 4 submissions were received, the submissions have been evaluated.
- 3.9 The GLA LDP framework is due to expire on the 9 May 2017 and the Development and Sale Agreement must be awarded prior to this date. Due to the fact that officers are still finalising documentation and, following discussions with Legal officers, it is deemed prudent to seek delegated approval to award the Development and Sale Agreement to ensure that it is possible to award ahead of the 9 May 2017 expiration date. Telford Homes Plc have been provisionally selected with partner Notting Hill Housing Group, confidential appendix 2 provides details of the evaluation.
- 3.10 As permitted by the GLA LDP, the tender evaluation criteria was set at 70% for financial offer and 30% for quality.
- 3.11 The mini-competition documentation included provision that the affordable (social rent) homes will be subject to Brent Council's Target Rents (equivalent to Homes and Communities Agency Target Rents)

4 Financial Implication

- 4.1 There is no request for additional capital budget or spend because the Council has agreed the scheme already and has completed most of the lease buy-backs on the site and there are only a few to complete. Overall, South Kilburn is self-financing in nature and the delivery partner pays for the known affordable and other community benefits required (see point 3.5). The logic of the South Kilburn programme is that the residual value of the site (capital receipts) and overage payments pay for the original planning and design works plus any lease buy-backs that the Council must make to ensure the development goes ahead. This is the primary risk that the Council undertakes. The Gloucester House and Durham Court site may not be self-financing but as a whole, higher performing schemes may need to subsidize other schemes, such as this one.
- 4.2 The financial decision to deliver the project and the agreement to conduct the procurement process has already previously taken place. Therefore, the financial decision noted here relates to the specific choice of the delivery partner.
- 4.3 The benefits noted in 3.5 were part of the original delivery partner tender requirements and there is no change to that. However, the level of overage payments will be dependent on market conditions in the future. Recently, overage payments have been rather healthy (>5% of original estimated sales value return to the Council) but market conditions are more uncertain, and such rosy assumptions might now be viewed as overly optimistic.

5 Legal Implications

- 5.1 The estimated value of this contract over its lifetime is higher than the relevant EU threshold and the award of the contract is therefore governed by the Public Contracts Regulations 2015 (the “EU Regulations”). The GLA LDP is a framework let in accordance with the EU Regulations. Provided the procurement of a delivery partner is conducted in accordance with the framework rules, the Development and Sale Agreement will have been procured in accordance with EU Regulations. The award is subject to the Council’s own Standing Orders in respect of High Value contracts.
- 5.2 The GLA LDP is due to expire on the 9 May 2017. Paragraph 62 of the Preamble to the Public Procurement Directive 2014 makes it clear that contracts based on a framework agreement are to be awarded before the end of the term of the framework agreement itself. The award of the Development and Sale Agreement must therefore be made prior to the expiry of the GLA LDP framework. The award of the Development and Sale Agreement is subject to the Council’s own Standing Orders in respect of High Value contracts and therefore approval of Cabinet is required for award. For the reasons detailed in paragraph 3.9, the intention is to seek delegated approval to the Strategic Director of Regeneration & Environment in consultation with the Lead Member Regeneration, Growth, Employment and Skills to award and enter into the Development and Sale Agreement.

6 Diversity Implications

- 6.1 There is a need to ensure that the Council’s Equality Analysis in relation to the different projects comprising the South Kilburn regeneration programme and their impact on residents (including leaseholders) with protected characteristics is kept up to date, and that reports to members provide sufficient information to demonstrate adequate consideration of the impacts on all protected groups.
- 6.2 As with all other schemes that are part of the South Kilburn regeneration programme, full consideration must be given to residents and leaseholder with protected characteristics, particularly people with disabilities and / or other types of vulnerabilities due to older age, childcare and/or caring responsibilities, socio-economic status (lone parents and large families). Due to the ethnicity profile of the area, full consideration must also be given to the impact on black, Asian and minority ethnic individuals/groups. The Council must also ensure that the options put forward to secure tenants and leaseholders, so far as possible, provide reasonable and affordable alternatives that enable them to remain in the area and maintain their family and community ties, as per Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights. Wherever possible, affected secure tenants and leaseholders should be engaged in the process of identifying the options and alternatives put forward.
- 6.3 This Cabinet report is solely in relation to the award of the contract for the Delivery Partner for the Gloucester House and Durham Court site. A robust procurement process has been followed. All secure tenants and leaseholders have already vacated the site and therefore are no longer impacted by this scheme. As such there is no need to consider any diversity issues in regard to occupiers. Within the Development and Sale Agreement there is an “Unlawful Discrimination and Equal Opportunities” section and Social Value obligations.

- 6.4 The new affordable social rented homes will be available to secure tenants currently living in properties due for demolition as part of the South Kilburn regeneration programme. All of the proposed units will be constructed to be Lifetime Homes compliant. Ten percent of all units will be designed to be wheelchair accessible, or easily adaptable properties and the allocation process includes officers reviewing occupational therapy (OT) requirements for secure tenants so that their physical needs can be pre-built into the scheme such that their individual homes are tailored to take account of any identified OT needs.

7 Staffing/Accommodation Implications

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

8 Public Services (Social Value) Act 2012

- 8.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how the services 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. This duty does not strictly apply to the proposed contract as it is not a services contract. Nevertheless, Officers have had regard to considerations contained in the Social Value Act in relation to the proposed contract.
- 8.2 The 26 January 2015 Cabinet report included a requirement for the developer, once appointed, to submit and gain approval for an employment and training action plan to deliver education links, apprenticeships and local labour outcomes in accordance with a Section 106 agreement for Gloucester House and Durham Court. The draft Section 106 agreement states that prior to the making of a Material Start the Owner must prepare, submit and obtain the Council's approval of the Employment and Training Plan. This includes:

The Owner must comply with the following obligations in relation to the construction phase of the Development:

- (a) prior to the making of a Material Start of the relevant part of the Development, the Owner must inform Brent Works in writing of the anticipated employment opportunities in the construction of that part of the Development;
- (b) use all reasonable endeavours to deliver a total of fifteen (15) Education Link, Apprentices/Local Labour and Workforce Development;
- (c) use all reasonable endeavours to procure that contracts to be let to sub-contractors are advertised to SMEs on the Brent First website or such other equivalent website as the Council may advise;
- (d) provide details of how the Owner and the main contractor(s) will work with the College of North West London or such other similar body as may be notified in writing by the Council to the Owner to ensure that construction related and/or work based training opportunities target students from within the Borough;

- (e) encourage and promote an approach to the employment and recruitment of Local People (including those previously unemployed) throughout the supply chain for the construction phase of the Development;
- (f) use reasonable endeavours to work with the Council to provide Local People with opportunities to improve their constructions skills offering, thereby enhancing their future employment prospects;
- (g) use reasonable endeavours to ensure that the Local People Employment Requirement is met in the construction phase;
- (h) submit monthly monitoring figures to the Council that outline:
 - (i) the number and status of construction job starts and finishes by Local People; job title; job length and post code of employee.
 - (ii) the number and status of construction apprenticeship/traineeship starts and finishes by Local People; apprenticeship/traineeship length and title and post code of individual.

8.3 The 26 January 2015 Cabinet paper outlined that the Gloucester House and Durham Court redevelopment site would also deliver an energy centre for the South Kilburn Neighbourhood Decentralised Heating System (referred to above as South Kilburn District Energy System), which envisages delivering lower energy costs for residents (based on average consumption use) to contribute towards the improvement of the economic well-being of residents of South Kilburn. As detailed in paragraph 3.7 above, this will be delivered separately. As outlined in the 26 January 2015 report the Gloucester House and Durham Court redevelopment site will provide a replacement public open space and general amenity space for the use and enjoyment of residents of South Kilburn.

8.4 Officers had regard to the Social Value Act in its procurement of a delivery partner and included questions around social value benefits into the Qualitative Tender Questions.

9 Background Papers

Cabinet Report
26 January 2015 South Kilburn Regeneration Programme

Appendices

Appendix 1 – Gloucester House and Durham Court Site boundary

Appendix 2 – Confidential – Award Report (Not for Publication)

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