



**Executive**  
17 October 2011

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

For Action

Wards affected:  
Kilburn

**South Kilburn Regeneration: Authority to Tender  
Contract For A Decentralised Energy System**

**1.0 Summary**

1.1 This report concerns the proposed procurement of a decentralised energy system as part of the regeneration of South Kilburn. This report seeks Executive's approval to invite tenders in respect of a decentralised energy system as required by Contract Standing Orders 88 and 89.

**2.0 Recommendations**

- 2.1 The Executive to give approval to the pre-tender considerations and criteria to be used to evaluate tenders as set out in paragraph 3.7 of the report.
- 2.2 The Executive to give approval to Officers to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in 2.1 above.

**3.0 Detail**

3.1 As part of the regeneration of South Kilburn, the installation of a district heat network has always been considered. The Mayor of London favours this decentralised energy approach and will seek its provision when applications in South Kilburn are referred to him. A district heat network will enable new developments in South Kilburn to achieve Code for Sustainable Homes Level 4 and potentially provide energy service to users at a lower cost. Subsequently, all the approved new developments in South Kilburn are required by planning Section 106 Agreements to connect to the district heat network. The procurement exercise set out below is in part to answer the technical and financial questions inherent in a complex energy scheme. If the risks of the proposed scheme outweigh the benefits, or the scheme is simply not viable, Officers will recommend that the Council does not proceed. Officers will only be

in a position to make a clear recommendation once tenders are evaluated as part of a procurement process. If it is the case that the Council does not proceed, alternative energy efficiency measures will be sought for the Executive's consideration.

- 3.2 A decentralised energy scheme involves hot water being pumped from an energy centre where heat will be generated by a district-wide combined heat and power (CHP) plant which generates electricity whilst also capturing usable heat that is produced in this process. To meet heating demand in winter, centralised boilers will be installed in the energy centre. The pipe carries this heated water through each building which is fitted with a heat exchanger that allows taking the heat from the network. Each property drawing heat from the heat pipe is metered for heat consumption (for hot water and central heating) and will pay for this heat accordingly. As part of the decentralised energy supply scheme, an energy supply company (ESCo) will be formed to deal with billing and collection of payments for heat supply and to install, maintain and manage the boiler system and heat network. Under the scheme as envisaged that the ESCOs will be operated by an outside company.
- 3.3 Officers hope to achieve all the following outcomes, but will report back on any potential trade-offs in achieving such objectives:
  - a) Lower energy costs for residents
  - b) That the district heating solution is no more costly than individual block solutions
  - c) Significant CO<sub>2</sub> savings
  - d) Delivery and risks taken by energy companies and not by the Council or its partner developers
  - e) Be better placed to meet higher Sustainable Code Levels in the future
  - f) A technically sound and reliable energy centre
- 3.4 The Executive on 18 July 2011 agreed to authorise Officers to take preparatory steps with a view to procuring an EU compliant contract with a prospective energy supplier to bring forward this decentralised energy system for South Kilburn.
- 3.5 Subsequently, on 30 July 2011, a Prior Information Notice was published in the Official Journal of the European Union (OJEU) to alert potential bidders. In order to enable Officers to explain the scheme in more detail, understand what level of investment that providers would commit to the proposed schemes and to ensure the scheme can be progressed in a way which is acceptable to the market, a market engagement meeting is scheduled to be held at the GLA on 6 October 2011.
- 3.6 At the Executive on 18 July, Officers indicated an intention to seek Executive authority to invite tenders and approve the pre-tender considerations and the criteria to be used to evaluate tenders if a positive response was received from the market. So far twenty one companies have expressed interest in attending the market engagement meeting. This suggests a positive response to any tender exercise. As there are many suppliers within the market and it is not

feasible to issue an Invitation to Tender to each, Officers therefore anticipate a two-stage tendering process (restricted procedure) in which the Council invites interested suppliers to undergo a pre-qualification assessment. Pre-qualification responses are evaluated and Officers intend to invite a minimum of six companies to tender.

- 3.7 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

<b>Ref.</b>	<b>Requirement</b>	<b>Response</b>	
(i)	The nature of the service	Design, Installation, Operation and Maintenance of the decentralised energy system in South Kilburn	
(ii)	The estimated value	£10m - £15m	
(iii)	The contract term	40 years with a 25 year break clause	
(iv)	The tender procedure to be adopted	Restricted procedure	
(v)	The procurement timetable	<b>Indicative dates are:</b>	
		<b>Milestone</b>	<b>Date</b>
		PIN published	30 July 2011
		Market Engagement meeting	06 October 2011
		Executive approval to tender	17 October 2011
		OJEU Notice published and adverts placed	04 Nov 2011
		Expressions of Interest returned	28 Dec 2011
		Shortlist drawn up in accordance with the Council's approved criteria	25 January 2012
		Issue Invitation to Tender (ITT)	01 February 2012
		Deadline for tender submissions	03 April 2012
		Panel evaluation, interviews and panel decision	01 May 2012
		Executive decision for contract award	25 June 2012
		10 day standstill period ends	6 July 2012
Contract start date	30 July 2012		
(vi)	The evaluation criteria and process.	Shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines namely the pre qualification questionnaire and thereby meeting the Council's financial standing requirements, technical capacity and technical expertise. The panel will evaluate the tenders against the following criteria	

Ref.	Requirement	Response
		a) Cost proposal including capital contribution from supplier (and commitment to renew infrastructure on timely basis) b) Customer heat price c) Risk allocation matrix d) Provision of customer services e) Proposed CO <sub>2</sub> reduction profile f) Level of heat losses g) Approach to Penalties for the Council not delivering sufficient units per year h) Commercial benefits if use exceeds projected demand i) Design and build quality j) Project management k) Approach to maintaining hot water/energy supply l) Partnership approach  A fuller explanation of the above criteria is detailed in paragraph 3.8 below
(vii)	Any business risks associated with entering the contract.	The following business risks are considered to be associated with entering into the proposed contract: <ul style="list-style-type: none"> <li>▪ Demand guarantee (insufficient demand associated with building delays)</li> <li>▪ Customer credit risk</li> <li>▪ Complexity of contract (various elements which are design, build, service, maintenance).</li> </ul>
(viii)	The Council's Best Value duties.	The project will be advertised in OJEU. The evaluation criteria will encourage higher capital contribution from suppliers, lower customer heat price and better customer services through open competition thus providing value for money for the council.
(ix)	Any staffing implications, including TUPE and pensions	None specific
(x)	The relevant financial, legal and other considerations	See Sections 4 and 5

### Evaluation Criteria

3.8 To be eligible to participate at the Invitation to Tender (ITT) stage, applicants should have already expressed an interest, submitted a Pre-Qualification Questionnaire and been formally advised by the Council that their organisations have passed the Pre-Qualification stage and are invited to submit a tender directly. The evaluation criteria which will be applied specifically to the contract are:

- a) Cost proposal including capital contribution from supplier (and commitment to renew infrastructure on timely basis)

- b) Customer heat price (lower than the retail price)
- c) Risk allocation matrix (i.e. will they deal with bad debts)
- d) Provision of customer services (experience, billing and quality)
- e) Proposed CO<sub>2</sub> reduction profile
- f) Level of heat losses
- g) Approach to Penalties for the Council not delivering sufficient units per year
- h) Commercial benefits if use exceeds projected demand
- i) Design and build quality (e.g. maintain flexibility of fuel supply/minimise disruption during construction and pipe laying)
- j) Project management (deliver on time/budget)
- k) Approach to Maintaining hot water/energy supply (continuity of supply with ESCo)
- l) Partnership approach (willingness to explore other innovative solutions e.g. retrofitting to existing stock, expanding network geographically)

#### **4.0 Financial Implications**

- 4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 89.
- 4.2 It is anticipated that the cost of this Project will be funded from the third party contributions via section 106 money and the contractor's own fund.
- 4.3 The GLA's Decentralised Energy Project Delivery Unit (DEPDU) funded by the EU will provide technical advice on specifications, delivery phasing plan and heads of terms up to the ITT stage. Then Officers will appoint consultants to provide technical support, commercial and financial analysis and programme management at the ITT stage. Any costs associated with such appointments (around £30k) will be met from a number of funding sources such as the New Homes Bonus.
- 4.4 If after evaluation of the ESCo bidders interest, progression with this project is not deemed financially viable and being too risky, the Council would look for alternative energy solutions that could help deliver a similar package of energy and customer heating benefits.

##### Value of contract

- 4.5 It is likely that the contract value will be between £10m and £15m. This is not additional money that will need to be found because the costs of alternative heat, insulation and renewables required on individual blocks to achieve the same Sustainable Code Level is similar to provide a decentralised energy centre.

##### How it will be financed

- 4.6 Currently developers pay approximately £5,000 to move from Code for Sustainable Homes Level 3 to level 4. Much of these costs are contained in improving insulation, air tightness etc. It is possible to get to the same Code

Level 4 by provision of a decentralised energy centre at similar cost and reduce the building fabric cost set out above. The Council will therefore collect the difference either through S106 Planning Obligations or by reducing the price of land sold to its framework partners. Noting that the land value is higher because the build cost requirements from the developer would be lower.

## **5.0 Legal Implications**

- 5.1 The estimated value of the decentralise energy system is higher than the EU threshold for a Public Works Concession Contract and its establishment is therefore governed by the application of the Public Contracts Regulations 2006 (the EU Regulations) as they apply to such contracts.
- 5.2 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 89.
- 5.3 Once the tendering process is undertaken, Officers will report back to the Executive in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and, if appropriate, recommending award.
- 5.4 In accordance with the EU Regulations, the Council will observe the requirements of the mandatory minimum 10 calendar standstill period before the contract is awarded.
- 5.5 Separate contracts for connecting to the decentralise energy system will be entered between the selected tenderer and the individual developers.
- 5.6 The selected tenderer will be required by the Council's contract to offer to each residential and non-residential occupier a standard Heat Supply Contract, which will include the following:
  - Flexible Heat Tariffs
  - Standard conditions of Service , including the compensation payable in the event of a failure to supply heat
  - Market Price Comparator
  - Vulnerable Customer Policy (residential only)
- 5.7 Where the Council is the landlord of secure tenants, the Council has repairing obligations under section 11 of the Landlord and Tenant Act 1985. Where the Council is the landlord and has let accommodation pursuant to secure tenancies, the Council has an implied obligation by statute to keep in repair and proper working order the installations in the dwelling-house for water, gas and electricity and for sanitation and also to keep in repair and proper working order the installations in the dwelling-house for space heating and water. Where the Council has granted leases under the Right to Buy provisions for a term of longer than seven years, there are no repairing obligations implied by statute and the repairing obligations regarding the provision of heating will be set out in the respective leases between the Council as freeholder and the leaseholders.

## **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 Neighbourhood Trust 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 Neighbourhood Trust 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.
- 6.3 The decentralised energy system will provide heat and hot water to all new developments in South Kilburn regardless who lives there. Customer heat price (lower than the retail price) and provision of customer services (experience, billing and quality) will be parts of the criteria to select the energy service company (ESCo) to deliver the DE project.
- 6.4 In general terms, disabled, black and ethnic minority groups are over represented in social housing. Any system that can provide improved energy bills and services could therefore impact more positively on these groups. New energy system can be sometimes perplexing to elderly residents and those with disabilities. Officers will ensure that the new energy system will be explained to residents. The housing associations, who will let the properties, have agreed to help residents when they move in and provide a clear explanation about the new energy supply, how to operate it and understand the billing system. The Council will also ensure that and heat billing is clear and available in different formats such as Braille, and a helpline service is available,

## **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.

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