



Cabinet

5 SEPTEMBER 2011

**CABINET MEMBER
FOR HOUSING**
*Councillor Andrew
Johnson*

**APPOINTMENT OF DEVELOPMENT AGENT
TO SUPPORT THE DELIVERY OF NEW
AFFORDABLE HOMES**

**Wards:
All**

This report provides information on the tendering process undertaken by officers to select a Development Agent to appoint the preferred bidder to provide services to develop new affordable homes on Council owned sites through the Council's Housing Development Company.

A separate report on the exempt part of the Cabinet agenda provides exempt information on the tendering process undertaken by officers to select a Development Agent and seeks approval to appoint the preferred bidder .

CONTRIBUTORS

HRD
DFCS
ADLDS

**HAS AN EIA BEEN
COMPLETED?
YES**

**HAS THE REPORT
CONTENT BEEN
RISK ASSESSED?
YES**

Recommendation:

That the fee cost of a Development Agent to support the delivery of new affordable homes be funded from the Decent Neighbourhoods Fund as capitalised expenditure, and from previously approved Section 106 balances in the case of revenue expenditure.

1. BACKGROUND

- 1.1. The Council has identified, and is in the process of evaluating a number of Council owned sites in the borough on which it would be possible to provide new affordable housing.
- 1.2. These sites within Council estates, include undercrofts, bin stores, pramsheds, etc that can be converted to new affordable homes. Initial preliminary investigations have identified six potential sites that, subject to detailed investigation and resident consultation, could deliver approximately 14 new affordable homes. The developments would also support improvements to residential amenities within the estates.
- 1.3. In April 2011 the Cabinet approved the establishment of the Council's Housing Development Company, which will be the vehicle through which development of any new affordable homes will be undertaken. In order to undertake detailed assessments of the potential sites, consult with local residents and develop scheme proposals it is necessary to appoint a Development Agent to lead on this work.

2. DEVELOPMENT AGENT SERVICES

- 2.1. The Development Agent services, that the Council proposes to procure, will include in particular the following activities:
 - Preparing the business case
 - Site design
 - Procurement of required professional services
 - Contract management
 - Customer services and handover
 - Communication and stakeholder engagement.

3. TENDER PROCESS

- 3.1. The Council completed an open tender process, conducted through the London Tender Portal, to advertise and select a preferred Development Agent. The process was completed through a single application process. The invitation to tender was advertised on 16 June 2011 and applicants were required to submit a formal response by 7 July 2011.
- 3.2. In order to demonstrate an open and transparent procurement process, the Tender Appraisal Panel adopted and followed the principles set out in the Public Contracts Regulations 2006.
- 3.3. The assessment process comprised two separate stages:
 - Qualification Stage
 - Award Stage (50 per cent quality and 50 per cent price)

- 3.4. Tenderers were required to achieve a minimum level of acceptability at the selection stage to test that they were technically competent to be awarded the contract. Those that met these criteria progressed to the tender evaluation stage. At the evaluation stage the remaining bidders were assessed on a combination of price and quality to identify the most economically advantageous tender to the Council. The Council also reserved the right to hold clarification interviews on 10 August 2011. The qualification and award stage final scores were presented to the Tender Appraisal Panel on 11 August 2011.
- 3.5 All the legal documentation was prepared by external lawyers on behalf of the Council.

4. SELECTION OF PREFERRED BIDDER

- 4.1. Over 50 enquires were received to the Council's advert and 12 organisations submitted tenders. Further information is in the separate report on the exempt part of the Cabinet agenda.

5. RISK MANAGEMENT

- 5.1. The report reflects risks currently recorded on the Council's Corporate Risk & Assurance Register and positively contributes to managing risk number 10 Managing the Business Objectives (publics needs and expectations).

6. EQUALITY IMPLICATIONS

- 6.1 As per the Equality Act 2010, the Council must consider its obligations with regard to the Public Sector Equality Duty (PSED). It must carry out its functions (as defined by the Human Rights Act 1998) with due regard to the duty and its effect on the protected characteristics (below) in a relevant and proportionate way. The duty came into effect on 5th April 2011. The protected characteristics are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion/belief (including non-belief)
- Sex
- Sexual orientation

- 6.2 At a later date, the Council will need to have due regard for the potential implications that any proposals for individual developments

sites would have. The duty to have "due regard" to the various identified "needs" in the relevant sections of the Equality Act 2010 does not impose a duty to achieve results. It is a duty to have "due regard" to the "need" to achieve the identified goals.

- 6.3 Should firm proposal come forward for any of the individual sites it will be necessary to assess these against the various protected characteristics and groups and to what extent they will be affected as a result of such proposals. The implications of any proposals would be demonstrated as part of the Cabinet Report and Equality Impact Assessment (EIA).
- 6.4 Notwithstanding the content of the EIA – which would be prepared for each individual site should any proposal come forward; the Council needs to be satisfied that the consultants (subject to appointment) have demonstrated that their research and findings take account of all protected characteristics in their recommendations back to the Council. The Council ultimately remains responsible for inquiring into any gaps, and using the findings to inform the EIA.

7. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES

- 7.1. An assessment of the tender specification has determined that the costs of the development agent services contract are likely to be a mix of revenue and capital expenditure. This is due both to the range of activities outlined in the specification and to the prognosis for the schemes following initial feasibility work.
- 7.2. Therefore, it is proposed to make provision for the cost from both capital and revenue resources.
- 7.3. The cost of the initial appraisals of each site will be revenue expenditure as this will happen before the development of the site has been approved by Cabinet. Section 106 revenue funds have been earmarked for Strategic Regeneration purposes and the development agent services costs of £130k will be identified as a potential call on these funds. Given that the above Section 106 revenue funds are expected to become available later in the financial year, it is proposed to avert any short term cash-flow difficulties by utilising the Council's Housing Revenue Account working balances (which are currently projected to stand at £3.5m by the year end) before reimbursement at a later date.
- 7.4. Following the initial development appraisal of the sites, the treatment of further fees as capital or revenue expenditure will be resolved for those schemes that are to be progressed. Cabinet will then be asked to approve each scheme and once approved for development,

subsequent expenditure will be funded from the Decent Neighbourhoods pot and from Section 106 as appropriate.

- 7.5. The Decent Neighbourhoods pot is currently forecast to remain in a significant surplus position for each of the next four years, and therefore the full contract value of £130,000 could potentially be fully funded from this source.

8. COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)

- 8.1. The tender process has been carried in accordance with the Council's contract standing orders and EU procurement rules.

9. COMMENTS OF THE ASSISTANT DIRECTOR (PROCUREMENT AND I T STRATEGY)

- 9.1 The AD has been represented on the Tender Appraisal Panel and supports the recommendations contained in the report.

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	Housing Development Company (Cabinet Report, April 2011)	Matin Miah	HRD
CONTACT OFFICER:		NAME: Matin Miah EXT. 3480	