

NON-KEY EXECUTIVE OFFICER REPORT

LONDON BOROUGH OF CAMDEN	WARDS: Gospel Oak
REPORT TITLE PROCUREMENT STRATEGY FOR BACTON PHASE 2 DEVELOPMENT PARTNER	
REPORT OF Director of Development, Supporting Communities	
FOR SUBMISSION TO Executive Director Supporting Communities	DATE 26 th October 2022
SUMMARY OF REPORT <p>This report sets out a proposed approach to the commissioning of a private developer partner to finance and build out Bacton Low Rise Phase 2 through a Development Agreement with the Council. Subject to contractual negotiations, it is expected that the development partner will finance the entire scheme; complete a planning amendment application; complete construction via a licence or lease; and sell the private homes out of a long leasehold interest that is granted by the Council following practical completion.</p> <p>The procurement strategy proposed is a competitive dialogue procedure with an evaluation ratio of 30% financial offer and 70% quality, and an expected contract term of a minimum of 4 years.</p> <p>The procurement strategy report is recommended for approval by the Executive Director Supporting Communities, in consultation with the Cabinet Member New Homes, Jobs and Community Investment, Cabinet Member for Better Homes and Cabinet Member for Finance and Cost of Living, the Executive Director Corporate Services and the Borough Solicitor for approval in line with Contract Standing Orders.</p> <p>Local Government Act 1972 – Access to Information No document that require listing were used in the preparation of this report.</p> <p>Contact Officer: Simon Pickles, Team Leader Regeneration (Gospel Oak) Simon.Pickles@camden.gov.uk Tel: 020 7974 1527</p>	

RECOMMENDATIONS

That the Executive Director Supporting Communities, in consultation with the Cabinet Member New Homes, Jobs and Community Investment, Cabinet Member for Better Homes and Cabinet Member for Finance and Cost of Living, the Executive Director Corporate Services and the Borough Solicitor, agrees:

1. the procurement strategy as set out in this report for an estimated total scheme gross development value of £135m, including use of a competitive dialogue procedure with an evaluation ratio of 30% financial offer and 70% quality (as set out in more detail in Section 2) and expected contract term of a minimum of 4 years, and
2. that procurement commences and the project proceeds to Contract Award.

A handwritten signature in black ink, appearing to be 'M. White', is positioned above the 'Signed:' text.

Signed:

Date: 26th October 2022

1. CONTEXT AND BACKGROUND

- 1.1 This report is seeking endorsement for the procurement of a developer partner to finance and build out Bacton Low Rise Phase 2 through a Development Agreement with the Council. Subject to contractual negotiations, it is expected that the development partner will finance the entire scheme; complete a planning amendment application; complete construction via a licence or lease; and sell the private homes out of a long leasehold interest that is granted by the Council following practical completion.
- 1.2 The Council will always retain freehold interest in the land. Camden will take ownership of 61 new Council homes for social rent and an additional 10 new affordable homes (intermediate rent). Camden expects to receive a lease premium (land value payment) which will be conditional on planning.
- 1.3 In September 2022 Cabinet approved a revised delivery strategy on Bacton Phase 2 from that of 'Council as housebuilder' to that of a Development Agreement with a development partner. The Cabinet report explains the reasons for this amended Delivery Strategy and considers the financial and non-financial implications of this strategy. The project objectives and how these will be achieved by Camden are clearly set out.
- Link to cabinet report: [Regeneration Strategy for the Community Investment Programme scheme Bacton Low Rise Estate Phase 2.pdf \(camden.gov.uk\)](#)
- 1.4 The recommended procurement strategy gives the Council the maximum (and necessary) flexibility in securing key outcomes, including design quality and responsibility for the future management of the estate.
- 1.5 In terms of future management and maintenance of the estate, Camden will discuss options with bidders in dialogue. This includes, but is not limited to, Camden Living purchasing the intermediate homes and a small number of private homes so that Camden / Camden Living has full management and maintenance responsibility of a complete mixed tenure block.

2. PROPOSALS AND REASONS

2.1 Proposal: Competitive Dialogue (CD) procedure:

This procedure is proposed as LBC "may discuss all aspects of the procurement with the chosen participants" during dialogue and it offers flexibility following submission of final tenders (they may be 'clarified, specified and optimised'). Up to four bidders will be shortlisted at Selection Questionnaire stage and invited to participate in the dialogue. An efficient programme is being proposed with three rounds of dialogue. Successive stages of dialogue where the number of bidders is reduced during the process are not being proposed.

See **Appendix 1** for indicative dialogue structure for shortlisted bidders

2.2 Proposal: evaluation ratio of 30% financial offer: 70% quality:

Quality sub-criteria will include focus on development assumptions informing the bidder's commercial offer, building safety, environmental sustainability, estate management, proposed team & resource, collaborative working, programme, planning strategy, social value, and stakeholder engagement. Bidders will also be required to mark-up the draft Development Agreement and those mark-ups will also be evaluated. The proposed draft award criteria are set out in full in **Appendices 2A and 2B**.

For the financial submission (i.e. the Developer's financial offer), it is proposed that bidders will be required to submit a lease premium offer based on building out the Council's draft design proposals but optimised if they recommend efficiencies. Bidders will therefore be required to price in their optimisations into their financial offer.

3. OPTIONS APPRAISAL

The following procurement routes were also considered for this project:

Option	Competitive procedure with negotiation (CPN)	Open procedure / restricted procedure	Use of London Development Panel 2 procurement framework
<p>Based on the project requirements, why is this route unsuitable?</p>	<p><i>Negotiation</i> - an advantage of CPN over CD is that it allows the Council to award contracts on the basis of the initial tenders without any negotiation, where this was indicated in the contract notice. If the Council, therefore, thinks that it may not need to negotiate with bidders, but wishes to reserve the right to do so, CPN would be appropriate. However, this is not required for Bacton as negotiating with bidders during the tender process is critical to the success of the procurement and project. This characteristic makes CPN unsuitable.</p>	<p><i>Dialogue and negotiation</i> - These procedures don't allow sufficient flexibility and provide no opportunity for negotiation or dialogue with bidders. The Council needs to have dialogue and negotiate with bidders on key elements of this complex project to improve their proposed solutions and ensure they meet Council requirements. This includes dialogue on matters such as programme, estate management arrangements, social value, and legal matters.</p> <p><i>Expedited programme</i> - an open procedure has been discounted because it allows</p>	<p><i>Bespoke Development Agreement</i> - The project requires a set of bespoke tender documents including the DA. However, one of the LDP2 Call-off Contracts must be used and the suite includes a standard form of DA, which itself contains a template Building Lease, Head Lease etc. This makes it unsuitable as the framework templates would have to be heavily amended by the Council, if this is permitted under the framework.</p> <p><i>Expedited programme</i> - The Call-off Procedure requires an initial Expression Of Interest stage to all 29 Panel Members, followed by a sifting stage</p>

	<p><i>Flexibility in the tender process</i> - CD provides marginally greater flexibility than CPN by expressly allowing for all aspects of the procurement to be discussed, as well as limited discussions of final tenders and negotiation on the winning tender to confirm financial commitments or other terms. The project legal and commercial advisors advise that the additional flexibility afforded under CD is essential in procuring projects of this nature, even more important in the context of Bacton's expedited programme. This makes CPN unsuitable.</p>	<p>no initial shortlisting stage so the number of bidders entering the competition could be unmanageable for the Council's resources and significantly delay the project programme.</p>	<p>before the main ITT stage. This adds another stage to the tender process in comparison to CD, extending the programme, making it unsuitable.</p> <p><i>Restricted number of developers on the framework</i> - Camden is seeking a partner who will deliver all of its requirements and project objectives. Camden does not want to limit the opportunity to those on the framework (although some suppliers are suitable). Camden intends to drive competition in the market by not using any framework to ensure the most economically advantageous tenderer in the market is awarded the contract.</p>
<p>Do the criticisms above apply to the proposal Competitive dialogue procedure? Why?</p>	<p>No because CD doesn't allow the opportunity to award the contract after initial tender, which isn't required for this project. Also, CD provides marginally greater flexibility than CPN (as set out above), which makes CD a more suitable procedure to use, particularly given the constrained programme.</p>	<p>No because CD allows discussion between the Council and each bidder on any aspect of the procurement. CD offers ample opportunity to dialogue and negotiate important items with all bidders to help improve their proposed solutions and ensure their proposals align with Council requirements. This should result in bidder proposals where value is maximised and risk to the Council is minimised. Also, CD allows for an initial shortlisting stage and a limited number of bidders invited to submit tenders.</p>	<p>No because Camden can use its own bespoke tender docs including the DA using the CD procedure. Also, the CD procurement timetable has been designed to be as efficient as possible with only 2 stages. Finally, the opportunity will not be limited to members of the LDP2 (or any framework), which should improve competitive tension and ensure the most economically advantageous tenderer in the market is awarded the contract.</p>

4. WHAT ARE THE KEY IMPACTS/RISKS? HOW WILL THEY BE ADDRESSED?

- 4.1 Project specific impacts / risks, and the associated mitigation strategy are set out below:

Risk	Impact	Mitigation
1 - Camden does not appoint a development partner at the conclusion of the tender process	<ul style="list-style-type: none"> - No development partner appointed - Further programme delay 	<ul style="list-style-type: none"> - Soft market engagement already completed which shows there is strong interest in the market to bid and an acceptance of Camden's requirements - Existing site and design information will be provided to bidders at SQ stage to facilitate early detailed understanding of the project, helping to ensure bidders' decisions around whether to participate are considered and robust - During the tender process, Camden is very clear with bidders about its requirements and commercial positions/expectations - Dialogue with bidders will take place during the tender process to work through any areas of commercial difference. Bidders will know they are still in competition during dialogue which should maintain market appetite/focus. - Camden has appointed an experienced, expert client professional team to support the tender process. - Camden has a clear exit strategy if it cannot reach contractual agreement with the preferred bidder - Camden has a strong track record of robustly and confidently managing procurements and contractual negotiations
2 - Build cost inflation, rising material costs, supply chain delays and labour shortages + site abnormals impacting construction costs	<ul style="list-style-type: none"> - May lower land value payment offers from bidders - LBC may require that tendered land value payment is fixed, subject to planning, so Camden's land payment once in contract with the developer is not impacted, but this approach is also likely to prompt an element of risk pricing. 	<ul style="list-style-type: none"> - The developer will be contractually bound to deliver all of their obligations under the contract including payment of the land value payment/premium in line with their tender, subject to any conditions such as planning - Developer proposals will be submitted on the basis of market risks (costs and values) being transferred from the Council to the partner - The developer will base their land value payment on their view of the construction market including cost inflation. - Land value offers and the bidders' wider development assumptions will be tested for robustness by Camden's financial advisors during the tender process to ensure they are realistic and achievable in the current economic climate - Camden will share existing site information / surveys on a non-reliance basis during the tender process. Given the site is cleared, has a planning consent, and detailed site information is available, Camden expects this to enable potential partners to have a very good view of the risks when they submit their tenders
3 - Programme delay	<ul style="list-style-type: none"> - Site remains vacant or construction stalls - Returnees and other residents must wait longer for new homes 	<ul style="list-style-type: none"> - Target dates, long stop dates and reasonable delay event mechanisms(see below) included as contractual controls to ensure that the development is completed within a reasonable timescale - Contractual requirement for social housing to be built first - It is normal to build in acceptable delay events into a Development Agreement which will permit the developer to slow down construction / delivery in specified circumstances, usually those outside of the Developer's reasonable control etc. - Programme delay is not a risk that can be 100% mitigated and is a normal part of property development activity
4 - Developer's planning amendment application isn't supported by local planning authority	<ul style="list-style-type: none"> - Delayed programme - Requires further design work 	<ul style="list-style-type: none"> - Camden will review bidders' design proposals during the tender process - Camden (CIP) will review and sign off developer's design proposals before they are submitted to planning
5 - Sales are slow and private homes unoccupied	<ul style="list-style-type: none"> - Developer may need to adapt sales strategy / pricing 	<ul style="list-style-type: none"> - The developer will base their land value payment on their view of the sales market and property values, and the risk / reward sits with the developer albeit the Council will have an opportunity to share in value uplift through an overage clause which is a typical mechanism built into Development Agreements

		- Non-restrictive sales strategy permitted in the contract to ensure new homes are sold quickly and do not remain void
6 - Construction causing disruption to local residents	- Noise and dust from construction and vehicles. Road closures etc.	- Developer's Construction Management Plan must be approved by the planning authority and stipulate how noise, dust and deliveries will be managed to minimise disruption to residents - Residents will be consulted on the proposals before it is approved - General works obligations (e.g. working hours requirements) can be included within the Development Agreement to address specific concerns.
7 - Social rent homes not delivered to high quality standard	- Poor experience for tenants - Repairs and maintenance issues	- Camden's quality standards will be clearly stipulated in the Development Agreement - Construction carefully monitored and inspected by Camden's professional team

5. LINKS TO OUR CAMDEN PLAN

- 5.1 Secure, good-quality housing is fundamental to residents' well-being. We want to be bold in supporting the We Make Camden ambition: Everyone in Camden should have a place they call home. Camden is tackling the housing crisis using all the levers available to us – including building bigger, better homes for our families and communities. The Community Investment Programme is one of our most significant and ambitious levers for tackling inequality and improving lives in our Borough.
- 5.2 We Make Camden is our joint vision for the Borough, developed in partnership with our community. The Community Investment Programme (CIP) contributes to the aspirations set out by our communities through We Make Camden by building homes that are safe, genuinely affordable, the right size, and accessible. The CIP is aligned with our organisational commitment to tackling the climate emergency and contributing to supporting households to avoid debt and financial hardship by creating homes that reduce heating and energy costs. Our CIP is also aligned with our wider organisational commitment to participation and partnership with our communities – our schemes are developed with residents on Estates and in communities, and they help shape the design and the priorities for Council housebuilding.
- 5.3 **Environmental sustainability:** Bidders will be required to submit at tender stage their proposed approach to environmental sustainability for this scheme including, but not limited to their intended approaches to carbon, energy, water and waste covering both the construction phase and the buildings in use.

6. CONSULTATION/ENGAGEMENT

- 6.1. The Bacton II communication strategy will be built on providing opportunities for residents to engage and opportunities for the development partner to meet local aspirations:

- Regular, clear communications - to ensure residents are kept informed and updated at every stage of the regeneration process e.g. through regular newsletters and FAQ sheets

- Two-way engagement and regular feedback - providing the local community with opportunities to share their views and contribute towards shaping the plans for their neighbourhood, including use of the construction working group

- Sharing programme updates - providing timeframes and an overview of stages to demonstrate a clear path to delivery of the estate regeneration

6.2. An Equalities Impact Assessment (EQIA) was carried out over the summer and has identified that the most significant negative equality impacts are likely to be concentrated through the protected characteristics of disability, age, pregnancy and maternity, health and language. Continued consideration and inclusive engagement methods will be necessary to ensure greater inclusion and mitigate any negative consequences outlined in the report. We will regularly monitor the EQIA mitigation action plan.

6.3 **Social Value:**

Social Value will be included as part of the award criteria. Bidders will be required to submit proposals that support inclusively a range of outcomes and groups, with quantified commitments where possible, and confirmation of how commitments will be tracked/measured, all of which will become contractual.

It will be required that social value proposals meet or exceed the Council's minimum requirements against our stated objectives, including:

- Apprentice Starts
- Work experience placements 16-19 year olds
- work placements 14-16 year olds
- Curriculum support activities
- Jobs advertised through local employment vehicles (Kings Cross Construction Skills Centre)

7. **ENVIRONMENTAL IMPLICATIONS**

7.1 The Bacton Low Rise Estate regeneration project includes demolition of existing homes and the redevelopment of the estate to much higher standards in terms of design, space standards and sustainability. Improved standards will reduce heating demand and consumption amongst residents, which may help to tackle fuel poverty.

7.2 100% of materials from the Phase 2 site demolition were recycled. The environmental effects of future construction waste on Phase 2 are not

considered to be significant. A Construction Management Plan must be approved by the planning authority, which includes waste management.

- 7.3 Subject to planning, it is expected that renewable, low carbon energy will be used to provide heating and hot water for the new homes. As such, it is not considered that there would be any significant air quality effects because of the development. The development will also be largely car free and provide new pedestrian links and cycle parking. The scheme will include measures for biodiversity enhancement and sustainable urban drainage systems.
- 7.4 Bidders will be required to submit at tender stage their proposed approach to environmental sustainability for this scheme including, but not limited to their intended approaches to carbon, energy, water and waste covering both the construction phase and the buildings in use.

8. LEGAL COMMENTS OF THE BOROUGH SOLICITOR

- 8.1 The proposals comply with Contract Standing Orders and The Public Contracts Regulations 2015 (PCR). In accordance with the PCR (and the Council's Contract Standing Orders (CSO)), the procurement is to be carried out by way of a two-stage process involving (i) a selection stage (to choose a shortlist of bidders from those expressing interest in response to a published tender notice) and (ii) a dialogue tender stage to identify acceptable solutions. The selection of the shortlist of bidders and of the preferred bidder will be made against stated Selection Questionnaire (SQ) criteria and award criteria respectively (each settled by the Council), provided to all prospective bidders, and reflecting the project requirements and wider Council corporate policies and objectives.
- 8.2 In all respects, the procurement will comply with the requirements of the PCR, notably in relation to it being a fair and transparent process, subject to equal treatment of bidders and confidentiality rules. It will also be conducted by way of an approved electronic tendering system and advertised on Contracts Finder (also in compliance with the PCR and CSO
- 8.3 In accordance with the CSO, the contract with the developer (in this instance development agreement) will be awarded on the basis of the most economically advantageous tender as determined by criteria relevant to the project.

9.FINANCIAL COMMENTS OF THE EXECUTIVE DIRECTOR, CORPORATE SERVICES

- 9.1 Detailed up-to-date Finance comments on the project were provided in the Cabinet report on 7th September 2022 ‘Regeneration Strategy for the Community Investment Programme scheme: Bacton Low Rise Estate Phase 2 (Gospel Oak) (SC/2022/44)’.
- 9.2 The estimated Total Value for the scheme will be included in the Contract. The Part II report at **appendix 3** sets out more financial information which the Council is not publishing as this could distort the development partner procurement process.

10. TIMETABLE FOR IMPLEMENTATION

Key milestones	Indicative Date (or range)*
Procurement strategy report – (Executive Director Supporting Communities)	October 2022
Tender advert	October 2022
Deadline for return of Selection Questionnaires	November 2022
Selection Questionnaires evaluation period	November – December 2022
Invitations to participate in dialogue ("ITPD") and commencement of dialogue issued	December 2022
Deadline for submission of tenders	March 2023
Tender evaluation and clarification period	Spring 2023
Contract Award (TG2) – CPB	Spring 2023
Contract Award Report – (<i>Executive Director Supporting Communities</i>)	Spring 2023
Winning Tenderer’s Social Value Delivery Plan logged	Spring 2023
Alcatel (10 day standstill procedure)	Spring 2023
Contract signature / sealing	Spring 2023
Transition to the new arrangements	Spring 2023
Contract start date	Spring 2023

11. APPENDICES

Appendix 1: Indicative dialogue structure for shortlisted bidders

Appendix 2A: Draft tender selection questionnaire evaluation criteria matrix

Appendix 2B: Draft tender award evaluation criteria matrix

Appendix 3: Part II (Not for publication)

REPORT ENDS