

MUNICIPAL YEAR 2012/2013 REPORT NO. **217**

**MEETING TITLE AND DATE:**  
Cabinet 24<sup>th</sup> April 2013

**REPORT OF:**  
Director – Regeneration,  
Leisure and Culture

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**Agenda – Part: 1**

**Item: 12**

**Subject: Ponders End: Delivery Arrangements**

**Wards: Ponders End**

**Key Decision No: 3682**

**Cabinet Member consulted: Councillor Goddard**

**1. EXECUTIVE SUMMARY**

- 1.1. Ponders End is identified in the Core Strategy as a priority regeneration area in North East Enfield, as a strategic location in the Upper Lee Valley Opportunity Area.
- 1.2. This report takes forward the Ponders End High Street Regeneration Scheme, now known as the Electric Quarter, as set out in previous Cabinet Reports of April and July 2012; and
- 1.3. Details the proposed delivery arrangements for the Electric Quarter and seeks authority to enter into an Agreement for Lease and following satisfaction of Conditions the granting of a Lease to a Delivery Partner following the completion of a robust procurement exercise.
- 1.4. A Part 2 Report sets out the results of the procurement for a Delivery Partner and the reasons for the recommendation of Firm C as the preferred bidder.

**2. RECOMMENDATIONS**

It is recommended that:

- 2.1 The progress in delivering the comprehensive approach to the redevelopment of Ponders End High Street (the Electric Quarter), be noted.

### **3. BACKGROUND**

3.1 In April 2012 Cabinet endorsed a comprehensive approach to the redevelopment of Ponders End High Street and approved a delivery strategy to progress the scheme. This report updates Cabinet on the progress that has been made in relation to this project.

3.2 Progress is now outlined under the three main headings of Land Assembly, Planning and Delivery Arrangements.

#### **3.3 Land Assembly**

3.3.1 Persona Associates Limited undertook a land referencing exercise for the Council to identify all the property interests affected by the Ponders End High Street Regeneration scheme. This work was successfully completed in December 2012.

3.3.2 Urban Vision Partnership Limited has been retained by the Council to provide valuation advice and negotiate the acquisition of property interests by private treaty. A number of offers have been made and negotiations continue. Jones Lang LaSalle has been retained to provide valuation advice and to help negotiate the acquisition of the former Middlesex University Campus.

3.3.3 Work has advanced to begin to prepare the site for development and demolition of the former Police Station has commenced following a competitive tender process drawing on the Exor Accredited List of Contractors. The Police Station site should be cleared by autumn 2013.

#### **3.4 Planning**

3.4.1 The Council submitted an Outline Planning Application on 31<sup>st</sup> October 2012 for Ponders End High Street Regeneration scheme (the Electric Quarter).

3.4.2 The Electric Quarter is a financially viable scheme and will provide up to 408 new homes, with over 50% being family sized accommodation (3 or more bedrooms). The Ponders End Library will be re-provided with a High Street frontage and new employment, retail, community and commercial space will be provided as part of the development. The proposal also provides for the sensitive restoration and use of the Grade II Listed Broadbent Buildings, which are nationally important local architectural assets.

3.4.3 The Outline Planning Application P12-02677PLA was considered by the January Planning Committee which was unanimously minded to grant Outline Planning Permission,

subject to referral to the Greater London Authority and Planning Conditions.

3.4.4 The Mayor of London considered the Greater London Authority Stage 2 Planning Report on 27<sup>th</sup> February 2013 and was content for L B Enfield to determine the application.

3.4.5 The Planning Decision Notice was issued on 5<sup>th</sup> March 2013.

### **3.5 Delivery Arrangements**

#### **3.5.1 Procurement of a Delivery Partner**

3.5.2 **Key Decision 3350** authorised preparation of documentation to support delivery arrangements, to include any necessary procurement process and delegated the decision in relation to the most appropriate route to the Director of Regeneration, Leisure and Culture, and the Lead Member for Business and Regeneration, in consultation with the Director of Finance, Resources & Customer Services.

3.5.3 Following an options analysis it was decided that the most appropriate procurement route was the use of the Homes and Communities Agency's (HCA's) Delivery Partner Panel Framework Agreement. The procurement business case was presented to the Strategic Procurement Board which noted that the procurement of a delivery partner was well advanced. The Board requested that apprenticeship opportunities, and how many are secured, should be tracked, and this was agreed.

3.5.4 As Cabinet may be aware, the HCA Delivery Partner Panel was procured through an OJEU tender process. The framework agreement established different Lots divided by geographical regions. Under the lot for the Southern Cluster, 17 organisation/consortiums were appointed onto the framework, having demonstrated their ability to deliver complex regeneration projects in London and the South of England, with appropriate insurances and financial standing.

3.5.5 The Council is able to procure a delivery partner using the HCA Delivery Partner Panel by following a 3 stage process:

- Stage 1 – Expressions of Interest;
- Stage 2 – Sifting (to create a short-list);
- Stage 3 – Mini Competition.

3.5.6 All 17 members of the HCA Delivery Partner Panel were sent the Expressions of Interest Brief in November 2012. 4 Panel Members expressed an interest.

3.5.7 The HCA confirmed that Stage 2 – Sifting is only required to create a shortlist of between 3 and 6 firms. As this had already been achieved there was no need to undertake Stage 2. In lieu of Stage 2 a briefing session for interested parties was arranged, to further explain the scheme and provide those interested Panel Members with further information.

3.5.8 On 5<sup>th</sup> February 2013, the Stage 3 – Mini Competition – Invitation to Tender was issued. Following advice from the Council's external legal advisors, Bevan Brittan, it was agreed that the most appropriate contract documentation would be the use of the HCA's Agreement for Lease and Lease in compliance with the conditions of use of the HCA framework. The advantage is that these documents already exist and have been robustly tested on a number of regeneration schemes. In addition the Delivery Panel Members themselves are familiar with the documents reducing the amount of time taken for negotiation and the legal input required to reach agreement, thus contributing to the achievement of Best Value.

3.5.9 Three tenders were received by the set deadline of Noon, 15<sup>th</sup> March 2013 and were evaluated using the following criteria:

#### 3.5.10 Evaluation Criteria

3.5.11 The tenders were evaluated on pre-published criteria to derive an overall score based on 50% for Price and 50% for Quality.

#### 3.5.12 Price

Price is based on a score of 35% for the Net Present Value (NPV) and a further 15% is available for the Overage percentage returned to the Council. The NPV of the phased land receipts to the Council is based on a consistent financial model prepared by Jones Lang LaSalle on behalf of the Council, which is populated with financial indices provided from Bidders as part of their tender returns, to derive the NPV of each bid. This NPV calculation is only to inform the bidder evaluation exercise. As Cabinet will know NPV is the difference between the present value of cash inflows and the present value of cash outflows. So it accounts for the time value of money and is an invaluable tool in helping to assess investment proposals. All of the bidders produced positive NPVs.

#### 3.5.13 Quality

The criteria for evaluating the Quality elements of the submissions are detailed below. All questions in relation to quality were marked out of 10. A score of 7/10 meets the required standard in all material aspects:

- Capacity (project team and subcontractors) 7.5%;
- Delivery approach 20%;
- Programme and phasing 7.5%;
- Partnership working 5%;
- Meanwhile use strategy 5%;
- Employment and Skills 5%.

### 3.5.14 Tender Results

	<b>FIRM A</b>	<b>FIRM B</b>	<b>FIRM C</b>	<b>FIRM D</b>
Price	43	<b>WITHDREW</b>	50	20
Quality	28		36	21
<b>Total</b>	<b>71</b>		<b>86</b>	<b>41</b>

Detailed evaluation information is contained in Part 2 of this report.

## 4. **ALTERNATIVE OPTIONS CONSIDERED**

4.1 Consideration was given to following a full OJEU tender process, but this option was discounted, because an OJEU process could not be successfully concluded within the tight timescales of the project timetable. The potential flexibility of attracting different interested providers and to negotiate a totally bespoke development agreement, were not believed to outweigh the benefits of the HCA Delivery Partner Panel, where a pre-approved panel existed and template legal documentation was available, thereby reducing timescales and the cost of legal input.

4.2 Some consideration was given to using the SCAPE Framework Agreement, which can be a sensible approach for some schemes, and would have enabled a contract to be entered into quickly. But this approach was not felt to be the most appropriate in this particular case because it would have necessitated the Council funding the scheme itself. Under the HCA Delivery Partner Panel method, the Council's development partner would provide the funding, and this would avoid any unnecessary call on the Council's resources.

## **5. REASONS FOR THE RECOMMENDATIONS**

5.1 **Key Decision 3350** authorised any necessary procurement process to support delivery arrangements of the Ponders End High Street Regeneration Scheme. As such the HCA Delivery Partner Panel Framework Contract was drawn upon. Following a competitive Mini-Tender and detailed evaluation, Firm C received the highest overall score as result of the evaluation process as set out in Part 2 of this report. It is recommended that the Council appoints Firm C as preferred bidder with a view of entering into an Agreement for Lease and a Lease.

## **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

### **6.1 Financial Implications**

6.1.1 Please refer to Part 2 of this report.

### **6.2 Legal Implications**

6.2.1 The general power of competence in Section 1 of the Localism Act 2011 provides the Council with the power to undertake anything that individuals generally may do. Section 2 of the Localism Act sets out the boundaries of the general power, requiring local authorities to act in accordance with statutory limitations or restrictions

6.2.2 The HCA Delivery Partner Panel was procured through an OJEU tender process that Local Authorities can use for the procurement of the delivery partner. The use of an Agreement for Lease and Lease was considered to be an appropriate mechanism to deliver the development within the required timeframe. The form of any Agreement for Lease and Lease with the development partner is to be in a form approved by the Assistant Director for Legal Services.

6.2.3 The redevelopment of the Site will be subject to the grant of a planning permission for reserved matters and various other pre-commencement conditions which must be satisfied before commencement of work.

6.2.4 The appointment of the development partner is in accordance with the Council's Constitution, in particular Contract Procedure Rules ("CPRs"). The Council must ensure that any further procurement of goods/works/services is in accordance with the CPRs.

### **6.3 Property Implications**

- 6.3.1 The redevelopment of Ponders End High Street is a key regeneration priority for the Council, as identified within its Core Strategy policies, the emerging North East Area Action Plan and the Ponders End Central Supplementary Planning Document. The project will deliver a high quality and sustainable mixed-use neighbourhood that will be integrated into the local area and will provide significant regeneration benefits.
- 6.3.2 The panel member to be appointed will become the Council's Development Partner for this scheme and will be required to fund and drive the project forward through detailed design, planning, development and sales. The principal documents that the Development Partner will be required to enter into are an Agreement for Lease and Lease (together with the documentation supplemental to the Agreement for Lease and Lease such as the forms of transfer). These agreements are based on the HCA's standard documentation, which have been deemed suitable and appropriate for this project and for the Council's use by its external legal and financial/property consultants, namely Bevan Brittan and Jones Lang LaSalle.
- 6.3.3 A robust procurement process was undertaken by Council officers, which has resulted in the recommendation to award the contract to Firm C.
- 6.3.4 The agreement for Lease is conditional on several conditions including the Council acquiring the site and providing vacant possession and the developer satisfying the planning conditions that were reserved, amongst other conditions. Agreeing the land price for phase 1 is also to be agreed prior to completing the Lease and the methodology to do so has been set and will be on an open book residual appraisal utilising the financial indices set during competition. Additionally, the agreement allows for overage provisions. These details will need to be reviewed in due course, albeit such review is limited to input data rather than methodology which has already been set and agreed.
- 6.3.5 The Delivery Partner will also be providing the shell and core of a new library facility that will have a bearing on the Council's asset management protocols.

6.3.6 This report seeks to delegate authority to enter into Agreement for Lease with the preferred bidder. As such, cognisance must be given to the Council's Property Procedure Rules before entering into contract.

## 7. KEY RISKS

**7.1 Do Nothing** – the Council will be unable to deliver the Electric Quarter.

**7.2 Lack of Market Interest** – Expressions of Interest have already been received. Briefing sessions were held with the interested parties prior to issuing the Mini Competition to further gauge interest and address issues. Commercial advisers have been retained to assemble the tender documentation and advise on the evaluation criteria, so that the information requested is appropriate, giving confidence to the market and minimising unnecessary effort.

**7.3 Legal Challenge** – Given that the HCA framework was established with an OJEU process and that the Council is able to utilise the HCA framework, the use of the framework represents a low procurement risk to the Council provided that the terms and conditions of the framework are complied with. External legal advice has been sought to ensure compliance throughout the tender and evaluation process.

## 8. IMPACT ON COUNCIL PRIORITIES

### 8.1 Fairness for All

The Regeneration of Ponders End High Street will promote fairness for all members of the local community through consulting the community on the proposals and by the planned provision of new commercial, community and residential development that is appropriately accessible to the local community. The Community Benefits Toolkit has already informed the Tender Documentation, and accordance to its requirements was an evaluation criteria.

### 8.2 Growth and Sustainability

Growth and sustainability are central to the proposals for Ponders End High Street. The proposed development (see Planning Application Reference: P12-02677PLA) will provide growth in terms of increasing the supply of quality housing in the area; improving the quality and quantity of commercial space; and by including one or more community uses that will facilitate appropriate community activities.



### **8.3 Strong Communities**

The proposals for Ponders End High Street (see Planning Application: P12-02677PLA) aim to increase home ownership levels in the area which will create a more mixed community and support greater footfall along the High Street. The proposed redevelopment will also provide a range of unit sizes to accommodate a diversity of community and commercial uses, and improving the public realm will facilitate the free flow of people between the High Street, Park, and the former Middlesex University site. The scheme will also provide sufficient space to accommodate the expansion of the local Mosque, which is very popular and at capacity.

## **9. EQUALITIES IMPACT IMPLICATIONS**

- 9.1** In accordance with the Contract Procedure Rules Version 6, the Regeneration of Ponders End High Street has been subject to a Predictive Equality Impact Assessment in March 2012 and an Equalities Impact Assessment in October 2012 as part of the outline planning application.
- 9.2** Overall the Equalities Impact Assessment finds the proposed development will respond positively to securing a development that promotes equality.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

The Regeneration of Ponders End High Street contributes towards the achievement of:

- Core Policy 41 of the Core Strategy
- Shaping Enfield's Future
- North East Enfield Preferred Options Report
- Ponders End Central Planning Brief (approved for adoption)
- 5a of the Sustainable Community Strategy 2007-2017
- Key Aim 4 of Creative Enfield 2009-13
- 2.10 "Improve the Quality of life for residents through the regeneration of the priority regeneration areas" of the Enfield Council Business Plan.

## **11. PUBLIC HEALTH IMPLICATIONS**

- 11.1** The Outline Planning Application (see Planning Application: P12-02677PLA) included a Health Impact Assessment. It concluded that the development will have an overall beneficial effect on several determinants for health, in particular on employment and education (in terms of job training), which have been identified as priorities in the local area.

11.2 Furthermore, the development has the potential to benefit several vulnerable groups which have been identified in the area. These groups include the unemployed, young people and children in poverty, mainly through the education and training opportunities, but also through the re-provision of a more modern and attractive library.

### **Background Papers**

None.