

London Borough of Enfield

Cabinet

9 December 2020

Subject: Working with Registered Providers
Cabinet Member: Cllr Caliskan, Leader and Cllr Gina Needs, Cabinet Member for Social Housing
Executive Director: Sarah Cary
Key Decision: KD 5191

Purpose of Report

1. This report seeks to establish a new way of working with Affordable Housing Providers to maximise contributors towards the delivery of the Council's Good Growth Housing Strategy and delivery of 12,460 homes over the Local Plan period. Specifically, the Council is seeking to work with housing providers to deliver up to 2000 new homes in the borough on Council owned sites over the 10-year strategy period. The Council wants to ensure quality of affordable housing provision across the Borough, as well as speed of delivery of new homes. The Council therefore proposes to establish a Charter for Delivering Better Housing Outcomes and creating an Affordable Housing Developer Framework.

Proposals

2. Delegate to the Director for Housing and Regeneration approval of the establishment of a Charter, setting out the expectations for working in the Borough both for stock-owning and developing Registered Providers entering into the local Enfield housing market. Performance against this Charter will be reported to Cabinet on an annual basis.
3. Approve the procurement of an Affordable Housing Developer Framework for the works and services included in this report (including exploring the scope of the framework to potentially enable other local authorities in London to access it).
4. Delegate authority to the Director for Housing and Regeneration (in consultation with the Director for Law & Governance and the Programme Director for Meridian Water) to determine the most appropriate procurement approach and to take all necessary steps to complete the procurement process.
5. Delegate authority to appoint selected providers to the Affordable Housing Developer Framework and to award subsequent call off contracts in

accordance with the Framework terms, to the Director for Housing and Regeneration, in consultation with the Programme Director for Meridian Water.

6. Authorise spend up to £300k allocated within already approved budgets in the General Fund and HRA for professional and legal services related to the procurement proposals in this report.

Reason for Proposals

7. The Council's Good Growth Housing Strategy sets out how we will deliver more and better homes to address inequality, create a more balanced housing market and help local people access a good home. The ambition to increase housing supply is an opportunity to develop homes and neighbourhoods that are balanced with mixed incomes, are health-promoting, environmentally sustainable, child-friendly, age-friendly and accessible for people through their lifetime.
8. Working alongside the Council or developers, Registered Providers (RPs) are key partners in the provision of affordable housing in the borough and share a common purpose with the Council to provide good, well managed affordable housing. Currently there are 39 stock-owning Registered Providers in the Borough with a total of 8840 homes. The largest landlords are London and Quadrant, Metropolitan Housing Trust and Christian Action Trust.
9. RPs include local authority landlords and private registered providers (such as not-for-profit housing associations and for-profit organisations) with the core purpose of supporting people with a housing need and are regulated by the Regulator of Social Housing, a non-departmental public body under the Ministry of Housing, Communities and Local Government (MHCLG). RPs tend to range in scale from those who work across a large geographical area to more localised and specialist RPs that have been set up to meet the needs of specific communities.
10. Some of the leading RPs in London also have a representative group known as G15, who published (Sept 2020) *Our Offer to London* which sets out how RPs can collaborate with councils and communities to build more genuinely affordable homes for people living in the capital. The G15 recognises that London's housing crisis is severe, but with new funding pledges and policy announcements, including reinstating grant funding for social rent homes and lifting the Housing Revenue Account cap, that there is an opportunity for housing associations and councils to have a closer and deeper partnership
11. This report sets out how the Council will work in partnership with affordable housing providers to increase investment in existing stock and create new homes in the Borough. The proposals set out how the Council intends to take a strategic approach to how housing providers engage and deliver services in the Borough, including the emerging Build to Rent market, to ensure that the Council's wider objectives to address housing needs are met.
12. Experienced affordable housing providers have much more to contribute than the delivery and management of affordable homes and the Council is particularly keen to engage with affordable housing providers who can make a

positive contribution to employment and training initiatives, community development work, and who have a good track record of tackling climate change.

Working with Affordable Housing Developers

13. The GLA's new Affordable Homes Programme (AHP) will require partnership working with a range of partners, including Registered Providers, to access grant funding and share resources. Collaboration between local authorities and Registered Providers is considered to have a collective ability to deliver more genuinely affordable homes for people living in the capital. As such, through the AHP, the GLA will encourage partners applying for Strategic Partner and Long Term Strategic Partner status to identify opportunities for collaboration and partnership with councils. These partnerships should focus on skills and capacity building and the Council is keen to be able to capitalise on the investment available for the Borough on council-owned sites.
14. This report proposes two ways of working with housing providers i) a Charter which will be consulted and established with all affordable Housing Providers entering or currently working in the borough and selection through ii) a formal procurement of an Affordable Housing Developer Framework for future developments on Council-owned sites.

Charter for Delivering Better Housing Outcomes

15. The Council is seeking to establish a "Charter for Delivering Better Housing Outcomes" (draft provided in Appendix 1) which will translate the Council's Good Growth Strategy into measured outcomes. These will seek to improve the Council's relationship with affordable housing providers and their management standards and operating practices, including nominations, allocations, tenant engagement, community development, promotion of equality, diversity and inclusion and safeguarding for residents.
16. The approach has been adopted by other boroughs and initial engagement has taken place with affordable housing providers through the Council's existing management forum and had been well received. It is intended that this Charter will be a voluntary arrangement between the Council and providers owning and managing social housing to provide more transparency in accordance with the for recommendations in the Social Housing White Paper published on 17 September 2020. Affordable Housing Providers will be required to report on residents' satisfaction in an effort to rebalance power between owners and tenants and the Charter will enable the Council to monitor this locally. Having a standard set of outcomes, provides more transparency to build better partnerships, more genuinely affordable homes and improve negotiations at planning stage and delivery of obligations, especially where developing on Council-owned land. The commitments agreed via the Charter will be monitored on a quarterly basis by the Housing team and reported on an annual basis to Cabinet.

Affordable Housing Provider Framework

17. This report also proposes to undertake a procurement process to create a framework of affordable housing developers for the delivery and management of new affordable homes on land released by the Council. The rationale for the Framework is that the procurement will enable more control over the pace of development and quality of housing management. By entering into agreement with up to 6 entities, who have been competitively tested on their ability to construct and provide development and project management expertise, the Council is able to call-off tenders as and when opportunities are made available for development. This reduces the time necessary for site by site OJEU procurements which can take up to 12 months.
18. Up to 2000 affordable homes will be delivered on council owned estates, such as Joyce and Snell's (subject to ballot) and Meridian Water over the next 10 years. Additionally, the council will directly deliver 1000 homes over the next 3 years, on complex infill sites which requires development expertise and professional resources.
19. The Affordable Housing Developer Framework ("Framework") will be created for the delivery new affordable homes, through conditional land disposals under development agreements, acquisition of dwellings, estate management and development management services. Having a framework of affordable housing developers with the capacity and expertise will be critical to help manage existing resources.
20. Subject to the procurement strategy, the Framework will involve selecting up to 6 lead partners with whom the Council will contract to deliver new homes on HRA and General Fund owned land. The Framework is intended to be made available to other Local Authorities to access over the contract period. The reason for this is because over the lifetime of the London Plan (Intend to Publish), there is a need to deliver more homes quickly, increase the number of affordable housing supply and work with entities who share common objectives such as Registered Providers. In order to be selected for the Framework, affordable housing providers will be required to demonstrate they have the capacity and capability for a range of development and housing management services, with offers for affordable housing or land to be called off through mini competitions.

Relevance to the Council's Plan

21. The scheme delivers on the priorities of the 2018-2022 Corporate Plan, "Creating a lifetime of opportunities in Enfield", by providing good homes in well-connected neighbourhoods. The provision of new affordable housing for a variety of needs will serve to improve the housing offer and the quality of the environment.
22. The Housing and Growth Strategy (KD4841), recognises the role the Council can play in increasing housing supply in the borough – both in its role of directly delivering new build homes (or acquiring them for affordable rent) and in enabling the delivery of homes by housing associations, developers and private landowners. This will significantly increase the supply of both affordable homes and private sale homes in the borough. The homes will be delivered to the

highest possible standard and so providing quality housing options for residents.

Background

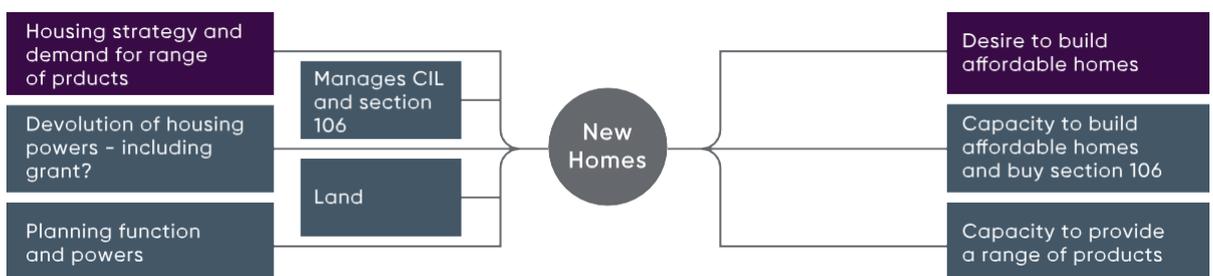
23. The Council will be significantly increasing the supply of new and genuinely affordable homes through release of land and the direct delivery programme. Subject to affordability, the Council will look to acquire 25% of all affordable housing delivered on Meridian Water into the HRA.
24. If the Council's HRA, however, cannot afford to increase borrowing or we wish to accelerate the pace of delivery, it is critical the Council plans for the future delivery of affordable housing and identifying partnerships with housing providers who have the capacity to commit long term to improving housing quality, tenant participation and investing in Enfield.
25. The proposals in this report therefore provide an opportunity to increase the overall levels of affordable housing in the Borough, with new affordable homes developed by Affordable Housing Developers delivered in addition to the Council's existing ambitious council house building programme.

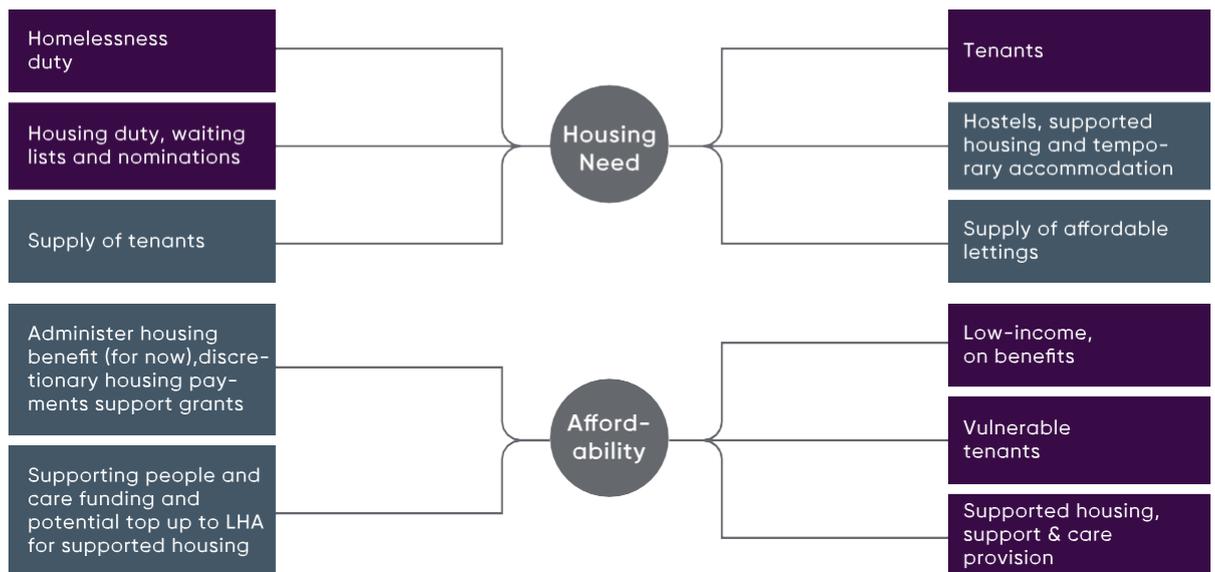
Main Considerations for the Council

26. Through the Council's Housing Strategy 2020 and Corporate Plan, the Council is committed to improving the housing, environmental and economic outcomes for those who live within Enfield. Given the diversity and scale of its requirements, the Council has been promoting a strong, local cross-sector co-operation with housing organisations operating within Enfield to develop and deliver its strategies. To be successful in delivering new affordable homes of the quality, mix and volumes required, the Council must work proactively with a wide range of partners. These partners have access to GLA grant, other funding streams and the use of their own capacity which can be levered in to maximise benefits for the Borough.
27. The common interests of Local Authorities and Housing Providers is illustrated below, which represents the opportunities for greater co-operation, improving investment opportunities and using our respective levers across all types of housing. This report primarily involves the participation of Registered Providers but also covers Build to Rent developers and operators who will be providing an element of affordable housing.

Local Authorities

Housing Providers





Procurement of a Framework

28. It is proposed that the Council procure a framework for affordable housing delivery. Frameworks are permitted by and governed by the Regulation 33(2) of the Public Contracts Regulations 2015. A framework is considered suitable for this procurement because of the likely variable scope of the works and given that there are a number of site opportunities which will not have been confirmed at the point of procurement.
29. The purpose of the Framework is for the Council to enter into agreement with selected housing providers for the delivery of affordable housing. The framework agreement will enable the Council to call off contracts for Meridian Water, Joyce and Snell's (subject to ballot) and the Council newbuild housing programme.
30. Market engagement is underway to inform the procurement route which includes the length of the framework and the contract value. The Public Contract Regulations require frameworks to be established for 4 years. A strong justification is required for any period extending beyond the 4 years and this will be tested through the pre-tender soft market engagement. Once the Framework Agreement has been awarded to selected Affordable Housing Developers, it is possible for call-offs to exceed the framework length.
31. The estimated value of the contract will be defined in the procurement approach and calculated based on the whole-life cost of the contract. This entails calculating the maximum potential contract value. Where there are various works or services, an estimation of value needs to be calculated and used and multiplied by the maximum contract length.

32. The expenditure to deliver the scope of works set out in this report is to be equally funded from the approved 10 year capital plan for Meridian Water and the HRA development programme.
33. The framework approach set out below, allows the Council the flexibility to instruct specific works and services as and when they are required and doesn't commit the Council to instructing the individual works packages until a call-off contract.

Framework Scope of Works

Land disposals for development

34. Some 2000 new homes are capable of being delivered from strategic regeneration schemes across the Council's General Fund and HRA portfolio. Up to 1000 new affordable homes will be built Meridian Water over the next 10 years. A key focus of the Framework will be selecting affordable housing developers for the acquisition of land for development or completed dwellings for affordable housing, commencing with Meridian Four. As the project moves into direct delivery, having an Affordable Housing Developer Framework means that only those Affordable Housing Developers who have satisfied the Council's objectives and financial tests will be enabled to own, develop and manage at Meridian Water.
35. Where land is offered to the framework, affordable housing providers will be required to enter into development agreements which will set out the conditions and obligations for housing delivery. It is expected that disposals will be on a long leasehold basis with the Council retaining the freehold.
36. Additionally, the Affordable Housing Developer Framework offers the council a panel of experts in development in the sector who can be called upon for policy development, design expertise and structuring multi-phased development. This market intelligence will create added value and enable new housing to be designed and appropriate for a range of needs.
37. Working with the Framework, the Council will seek to bring forward flexible, well-planned, high-quality housing that, subject to viability, is zero-carbon by 2030 and maintains and tackles fuel poverty. This could include extra care later living accommodation and strengthened quality for general needs housing offer.

Development management services

38. A number of Local Authorities have procured or entered into Collaboration Agreements with housing developers to provide development and project management services to support the council's development teams to progress sites through feasibility stage, planning and construction. The Council has an ambition to deliver 3500 homes over the next 10 years within difficult market conditions and financial constraints. By having a Framework Agreement with selected entities, this enables the Council to call off Affordable Housing Developer for development management services to support the council owned sites through design, planning, construction and sales. To be selected

onto the Framework, the procurement will seek to agree a schedule of rates as a % of costs or fees which will be called off the Framework as and when required over the lifetime of the contract.

Housing & estate Management services

39. The Council holds stock outside the borough which fall within existing housing management services. There is opportunity to review the cost of this and explore better efficiencies through working with an experienced housing provider who has a local presence. However to engage a provider the Council will need to undertake a procurement for estate management services outside the borough. Through the Framework Agreement the Council can procure services for estate or block management which could provide savings on cost and time and be a quicker way to engage Affordable Housing Developers for acute housing management needs.
40. The services will range from development management to construct, own and operating their own units. Throughout the lifetime of the framework, partners will be encouraged to partner with smaller housing associations, or specialist providers, for relevant projects at the call off stage. This approach will help to reflect the diverse community of Enfield and supports an inclusive approach to development and creating mixed and sustainable communities.
41. It is important that there are sufficient benefits for Affordable Housing Developers to ensure that a good number participate in this process. These have been described broadly earlier on in the report and can be summarised as follows:
 - a. Delivery or purchase of Affordable housing, including through use of Right to Buy receipts, S106 and HRA opportunities.
 - b. Acquisition of land or other assets to provide capital receipts to the General Fund or HRA.
 - c. Development management services to provide additional capacity and resources for the delivery of our development programme.
 - d. Contribution to initiatives to secure and strengthen role in housing management, place making including sustainable design, community development services and services to improve opportunities for residents such as training and into employment services
 - e. Engagement with SME and BAME RPs. At mini-competition stage, lead partners will be asked to define how they will meet the needs of the communities, including partnerships with specialised RPs.
 - f. Out of borough housing management service, if and when required.
 - g. Supported housing services which could include housing related support or "exempt accommodation" status housing for example to people who have been homeless or floating support services which are a feature of our new Housing Advisory Service

Partners will also adopt and contribute to the promotion of Council policy which will include:

- h. Delivering employment, training and apprenticeship opportunities and community development work

- i. Subscribing to Charter and procedures on any information related to the management of developed or existing stock within the borough and provide accurate information within required timescales
 - j. Subscribing to relevant Council charters in respect of equality, diversity and inclusion, community safety and housing management in multi-landlord neighbourhoods
 - k. Manage housing stock and wider operations to the standards set by the housing regulator and demonstrate actions undertaken to continually improve services offered to tenant and leaseholders
 - l. Engage and deliver any activities related to furthering the Council's Climate Action Plan
 - m. Participate in RP forums which are established to share good practice
 - n. Commit to the development of housing in accordance with the boroughs Local Development Framework policies, for example the development of larger sized family homes (3bed+), affordable housing policy and the Council's guidance on affordability of accommodation.
42. To inform the Council's approach we have undertaken a soft market testing with affordable housing providers including the G15 and other Registered Providers who operate or own stock in the borough and non-profit RPs.
43. The implementation of the procurement strategy will be overseen by the Place Procurement Board chaired by the Programme Director for Meridian Water.
44. The tender process will be open to all interested parties who meet the Framework requirements. The Council will seek to select up to 6 affordable housing providers. As each opportunity comes forward, there will be a mini-competition stage which will determine price and quality, including social value. At that stage, the Council will seek a range of housing offers and if relevant to the scheme, may require bidders to develop partnerships with smaller or specialised housing associations with expertise in care.
45. To derive the maximum social benefit from the contract and the supply chain, the bidders will be asked to demonstrate their expertise and experience to be selected onto the Framework. This includes exploring the current delivery of local initiatives, apprenticeships and training, equal opportunities and corporate social responsibility offers. The London Living Wage will be a condition of the contract being entered, as far as is legally permitted.
46. Tenders will be evaluated based on the tenderers' ability to deliver the priorities as set out in the technical evaluation criteria. This approach to selection is focused on affordable housing developers that offer high quality tenant satisfaction and housing management. At the This balance is necessary to ensure that we have a competitive process that incentivises housing providers to tender to join the framework.
47. Subject to approval, the procurement will commence in early 2021 and Framework Agreements set up place in 2022.

Framework monitoring

48. The period of the framework agreement will be defined during the tender process and established for no less than 4 years and up to 10 years. Over that period, the performance of the affordable housing developers will be reviewed annually by the Housing Development team and reported to Cabinet to ensure standards are being met. If the affordable housing providers fall below the Council's standards or do not have the capacity to take on projects, the Council reserves its right to deliver its objectives through other routes, including separate open market tenders or existing frameworks to meet specific requirements for projects.
49. The Council should be able to achieve a significant amount of social benefit and value through this procurement. Social value will be included as an award criterion at the call of stage and form part of the evaluation process. This will require bidders to consider their economic, environmental and social plans for delivery. This will be monitored throughout the lifetime of the framework.
50. Contract management for the affordable housing providers will be the responsibility of the housing service, with reporting on an annual basis to the Cabinet.

Commissioning of services and alternative procurement

51. The framework agreement for affordable housing developers will cover most circumstances. However, there may be a need to procure or commission third party buying consortiums, such as provision for Adult Social Care, which will fall outside of the Framework Agreement and therefore separate procurement processes will be necessary.
52. The Council will reserve its position in any tender documentation to ensure that any services outside of the acquisition and delivery of affordable housing, will be procured separate to the Affordable Housing Developer framework. This means that if a contract is procured through competitive tenders or via another available framework, this will be treated as a new procurement and will be subject to the Council's governance and contract procedures rules regarding the procurement strategy and award of the contract.

Safeguarding Implications

53. There are no safeguarding issues that arise from this proposal. When projects are offered to the Framework, RPs will be required to evidence their safeguarding policies in accordance with the Council's community safety plan and tenancy strategy.

Public Health Implications

54. The provision of new supply will improve the health and wellbeing of a significant number of people on the housing register over the next 10 years.

Equalities Impact of the Proposal

55. The EIA identified that there would be no differential impacts. This is because the disposal of Council-owned sites for affordable housing will enable the provision of much needed homes, family-sized homes and smaller homes for those under-occupying social housing, helping to tackle overcrowding, a top priority for the Council.
56. Council officers on the project team will continue to take into consideration these key equality opportunities in formulating the design proposals for delivery of the Council's newbuild programme. The design proposals of all schemes are subject to ongoing consultation meetings with the local stakeholder group and members of the community. The feedback received at these meetings are taken into account when progressing the design proposals to address any negative impacts of the redevelopment on residents. Affordable Housing providers selected for the framework will be required to demonstrate how they meet their Equality Duty.

Environmental and Climate Change Considerations

57. The main long-term environmental implications of this contract relate to the design of the dwellings, both in terms of materials used and the energy efficiency of the new buildings. The council will require that any new homes built on Meridian Water will be in accordance with the Sustainability Strategy recently approved.

Risks that may arise if the proposed decision and related work is not taken

58. The creation of a framework allows for the Council to control how development is designed, built and owned and managed. It will allow for call off services for project management in a more efficient way over the lifetime of the Framework and without the need for separate negotiations each time the Council has a resource pressure. The risk is that the Council will lose that ability to secure homes and improve housing management if the proposals in this report are not approved.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

59. Performance indicators will be set within the form of agreements related to the Framework and these will be regularly monitored to ensure performance standards and expectations are met, and costs continue to represent value for money. In addition, regular and ad hoc review meetings will be held to consider performance issues and action taken as appropriate.

Risks	Mitigation
Cost of OJEU process	Tight programme fully costed with consultant or procurement team
Failure to meet OJEU timescales	Co-ordinated programme to be developed, to include approval timescales.

Poor take up of opportunity	Soft-market testing with pipeline of sites/units likely to come forward over the next 4 years
Failure of affordable housing providers to deliver obligations set out in tenders	SQ will be used at selection stage to determine tender list. The tender documentation will set out the minimum price requirements and KPIs. This will form part of the agreement if appointed to the framework.
Collaboration between Council and affordable housing providers is not clearly defined and specifications are not robust enough	Tender documentation and evaluation criteria for selection on to the panel. Form of agreements will be published during the OJEU process and subsequent mini competition will be in accordance with those agreed terms.
Challenge from other providers who were unsuccessful in being selected	Procedures followed in accordance with Public Contract Regulations with continuous legal and procurement advice
Competition restricted and framework does not deliver housing outcomes	Define management obligations and legal agreements to include Charter for Delivering Housing Outcomes. Define opportunities at call off stage for Lead Partners to engage other affordable housing providers at mini-competition stage including small and specialised HA to deliver broader social value.
Lack of resources to invest in agreement over the lifecycle of the projects	Financial commitment to be agreed as a pre-selection criterion Controls in the agreement to terminate or use other routes for disposals and development

Financial Implications

60. The proposals will be delivered within approved budgets. The Framework does not guarantee the disposal of any sites to any individual organisations, and the Council will continue to assess the disposal of each site through the framework under its existing obligations to achieve best consideration from its assets.
61. There is no minimum level of work that is required to be allocated to any of the contractors within the framework hence the Council's financial position is protected. The Report recommends a framework approach as one that delivers the best combination of price & expedient delivery and each mini-competition will have to satisfy the financial regulations on best consideration.
62. Any organisation on the framework will have to pass the Council's tests to ensure they are of sound financial and economic standing prior to being on the framework. This will be continually monitored whilst on the framework to ensure they continue to be financially and economically sound.
63. Any proposals developed will need to be financially viable for the Council (general fund and HRA) and comply with the Council's financial framework (currently still in development) for new projects. Projects will be assessed for affordability, viability and overall impact on Council's finances using the financial framework.

Legal Implications

64. *S.111 Local Government Act (1972)* gives a local authority power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions, including its housing functions.
65. Furthermore, the general power of competence under *s.1(1) Localism Act (2011)* states that a local authority has the power to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. The proposal to set up the Framework as mentioned within this report are therefore in accordance with the Council's powers.
66. Although further work is required to finalise the estimated Framework value (such valuation to be conducted in accordance with the provisions of Reg 6 Public Contracts Regulations 2015 ("**PCR 2015**")) the estimated value of the Framework is expected to be above the current OJEU threshold. The procurement of the Framework (and the award of any call-off contract awarded as a result) must therefore comply with both the Council's Contract Procedure Rules ("**CPRs**") and the PCR 2015. Reg 33 PCR 2015 permits the Council to conclude a framework agreement which may run for a duration of no more than 4 years, save in exceptional cases duly justified. It is envisaged that the Framework will run for a term longer than 4 years and officers must provide justification for this which will form part of the procurement strategy. In determining the length of the Framework, the Council must balance the administrative and commercial benefits of a longer duration against the degree of potential restriction of competition in the relevant market.
67. It is proposed that the Framework is procured using the restricted procedure set out in Reg 28 PCR 2015. Using this approach will mean that the Council is prevented from negotiating or making amendments to the contract documents post award of contract unless the initial procurement documents set out in clear, precise and unequivocal terms the nature of amendments that can be made or the variations otherwise comply with Reg 72 PCR 2015.
68. In accordance with CPR 4.2 officers are reminded that no contract may be awarded unless there is sufficient budget available for what is being procured and appropriate delegated authority to award the contract has been given.
69. In relation to individual projects under the framework where the Council will be seeking to impose control over project output for development on the land it will be disposing of, then such schemes will be subject to the Public Contract Regulations 2015 (*PCRs 2015*) along with the EU procurement principles.
70. Any disposal of Council property envisaged by the subject matter of this report must comply with the Council's Property Procedure Rules, s123 Local Government Act 1972 and s32 Housing Act 1985. In particular, the Council may not dispose of its land for a consideration less than the best that can reasonably be obtained except with the consent of the Secretary of State. Furthermore, any disposal of land off the Framework will be considered an "off market

disposal” for the purposes of the Council’s Property Procedure Rules. Officers must therefore demonstrate in each case that such a disposal (rather than a disposal advertised on the open market) would be in the best interests of the Council. Officers should obtain further legal advice in respect of each disposal proposed pursuant to the terms of the framework.

71. All procurement processes and any contracts awarded (including the professionals and legal advisers contemplated in proposal 6 of this report) must comply with the Council’s Constitution, its CPRs and the PCR 2015. No external legal advice is to be instructed or sought without the prior approval of Legal Services.
72. The keeping of the Council’s Housing Revenue Account is governed by Schedule 4 of the Local Government and Housing Act 1989 which principally lists the credits and the debits that can be made to and from the account. With respect to the charging of expenditure to a revenue account, the Council must follow "proper practices", as defined in Section 21 of the Local Government Act 2003, including Regulations and Guidance made thereunder.
73. All legal documents entered into must be approved in advance of contract commencement by Legal Services on behalf of the Director of Law and Governance.

Workforce Implications

74. This report commits the Housing & Regeneration team to achieve clear milestones within the next 18 months in order to secure delivery of affordable housing.
75. It is likely that this will require the recruitment of additional skilled resource to the team in either a permanent or fixed term capacity, which will have cost implications for the service and add to the total headcount of the Council.

Property Implications

76. The Local Government Act 1972 s123 applies to all disposals. For Section 123 purposes, a disposal includes the grant of a lease of more than 7 years or an assignment of an existing lease which has more than 7 years to run.
77. To ensure transparency in all property transactions as a matter of general principle, disposals or lettings to any organisation, including charitable, voluntary or non-profit organisations, must be on the basis of market value, with any financial assistance or other gratuitous benefit to be provided by way of a grant rather than reduction in the disposal terms.
78. The Property Procedure Rules will need to be considered when preparing the evaluation criteria for the disposals council owned land to ensure that the disposal method and negotiation process are transparent and that auditable processes are followed.

79. There are no individual property implications arising directly from this report however it is anticipated that there may be future Property Imps as each project develops. Any future developments that have disposals will need to be reviewed at the time when property transactions or disposals are included Strategic Property Services will comment on the individual terms of the deal.

Other Implications

80. The Local Government Act 1972 s123 applies to all disposals. For Section 123 purposes, a disposal includes the grant of a lease of more than 7 years or an assignment of an existing lease which has more than 7 years to run.

81. To ensure transparency in all property transactions as a matter of general principle, disposals or lettings to any organisation, including charitable, voluntary or non-profit organisations, must be on the basis of market value, with any financial assistance or other gratuitous benefit to be provided by way of a grant rather than reduction in the disposal terms.

82. The Property Procedure Rules will need to be considered when preparing the evaluation criteria for the disposals council owned land to ensure that the disposal method and negotiation process are transparent and that auditable processes are followed.

Options Considered

83. To deliver affordable housing on sites identified the Council has various options which are set out below:

84. Creating a Framework

The Council can build a relationship with the entities on the Framework without setting a contractual obligation to provide sites or develop. The mini-competitions for each site will encourage competitive pricing and innovation. The most suitable provider by each site can be chosen for each opportunity. A Single OJEU procurement exercise is less arduous but a Framework can be open for use by other Local Authorities, helping to build relationships. Unlike other Frameworks which are mainly for development, selected entities will be required to offer project management resources to support the council's direct delivery programme on a competitively priced basis.

85. There are limitations with this option including if opportunities do not come through in a timely manner over the framework period then this weakens the relationship with the providers. Additionally a framework is time consuming procurement exercise and officer time is intensive, pre and post contract appointment.

86. Single procurement exercise

87. This would allow for the appointment of only one entity who the council can build a commercial relationship with. Depending on the arrangement, some risk

may be transferred to the single provider. However, different opportunities and size of sites may not be attractive to the provider. Additionally the Framework is for full housing management and development which means the Council would rely on the single entity over the Framework period.

88. If the relationship fails or there are performance concerns the Council will remain bound to the partnership for the whole programme. The single procurement route does not achieve the aim of collaborating widely with the partners in the borough and is less flexible to a changing development programme and the addition of new sites.

89. *Procurement/disposal on a site by site basis*

90. The most suitable provider for each site can be chosen. It is easy to add or remove sites from the programme as there is no contractual obligation to develop. If new organisations enter the market they will be able to bid for opportunities. The limitation with this is that multiple OJEU procurements with long lead ins are expensive and time consuming for the Council and bidders. There is also a requirement to engage the market and generate sufficient interest in each procurement exercise to ensure competition

91. *Other frameworks*

92. The Council currently uses frameworks established by other public bodies. This procurement route is often streamlined and includes a range of organisations who have been independently assessed as suitable partners. The limitation with this option is the Council cannot amend the contract terms procured or require obligations beyond the scope of that framework agreement.

93. The Council could dispose of assets but there is currently no formal arrangement in place for development control or management of Registered Providers who own stock in the borough. The Council is seeking to maximise its assets over the next 10 years and create social value for existing and new communities, which requires a more contractual route for affordable housing delivery.

94. It is envisaged that the successful housing providers will be required to enter into site-specific development agreements for council owned sites which are transferred to them for build. In broad terms, the development agreement would contain outcome focused commitments by the housing provider which the Council would not otherwise be able to impose through a combination of the land sale agreement and/or the planning process. The rationale for creating a Framework is that the Council wants to deliver more genuinely affordable homes quicker through stronger partnerships with housing providers, maintain nomination rights and exercise more control over the look and feel of new developments.

95. Overall the route that best meets the Council's objectives of flexible, rapid delivery that provides value for money is to develop a Framework of Housing Providers.

Conclusions

96. This paper has set out an approach to harness the resources that the Council, and Registered Providers have in order to deliver high quality housing of all tenures. The procurement of a new Affordable Housing Developer framework is paramount to maximizing the benefit of expertise and capacity to assist in delivering the new homes in the borough.
97. The Council is committed to providing high quality new homes in terms of design, in- use performance and long-term sustainability and energy efficiency, creating places that are genuinely affordable places to live for residents in housing need and helping them tackle the cost of living.
98. The Framework requires any organization willing to work with the Council on its new homes programme to be committed to and able to demonstrate they have the necessary track record, including relevant experience, skills and capacity to deliver our objectives on a range of sites over a ten-year period.

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Appendices

Appendix 1 Charter for Better Housing Outcomes

Background Papers

The following documents have been relied on in the preparation of this report:

None