



CABINET

17 January 2018

Subject Heading:

PUBLIC AGENDA REPORT

**12 HRA Sites JV Procurement –
Entering into a Limited Liability
Partnership**

Cabinet Member:

Councillor Damian White - Deputy Leader of the Council and Cabinet Member for Housing

SLT Lead:

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Policy context:

Havering Housing Strategy 2014-2017

HRA Business Plan 2017-2047

National Planning Policy Framework 2012

London Plan 2011

*Havering Local Development Framework
and Romford Area Action Plan 2008*

Romford Development Framework 2015

*Havering Proposed Submission Local
Plan 2017*

Financial summary:

The report seeks Cabinet approval in principle to invest a maximum of £63.3m of capital expenditure into a Limited Liability Partnership to deliver the regeneration of 12 Housing Revenue Account (HRA) sites. This investment is contained within the HRA and is in addition to the Approved HRA Capital Programme 2017/18 to 2019/20. The bulk of this investment would be in the form of HRA land, the net value of which is currently estimated at £59.7m (all 12

sites), with the remaining £3.6m as cash funding. The report also requires a budget of £50.5 m in respect of land assembly/ CPO costs to enable the Council to provide vacant possession. It will therefore require consideration and approval by Full Council. Therefore, subject to Cabinet/Council approval of the recommendations within this report, the scheme will be included in the proposed capital programme to be considered as part of the 2018/19 HRA budget process and will be subject to approval of the Capital Programme and Treasury Management Strategy in February 2018.

A total revenue surplus for the HRA of £51.7m is forecast as a result of this regeneration scheme after meeting capital financing costs of borrowing. Although a deficit of £0.3m will be incurred over the first year and will require HRA revenue resources to support it until net income streams are generated. An estimated capital receipt of £63.3m is expected to be realised at the end of the scheme.

The financial details are contained within the exempt agenda report.

Is this a Key Decision?

Yes

When should this matter be reviewed? January 2019

Reviewing OSC: Towns and Communities

The subject matter of this report deals with the following Council Objectives –

Communities making Havering [✓]
Places making Havering [✓]
Opportunities making Havering [✓]
Connections making Havering [✓]

SUMMARY

1. In June 2016 and October 2016, Cabinet received reports regarding increasing the amount of affordable homes through the HRA and a Review of Older Persons Housing. As a result of the information provided to Cabinet the 12 sites for

regeneration were identified and agreed along with the prioritisation of the sites within the programme.

2. In the reports to Cabinet identified above, information was provided on the extensive consultation process that had commenced with residents on the estates and how the feedback had been used to shape the final proposals being put forward. Since October 2016 the consultation process has continued with tenants and residents of the sites and has been extended to include residents who are neighbouring the sites. This report provides Cabinet with a full update on the consultation process.
3. In those reports, officers also provided Cabinet with information on the review of procurement processes to deliver such a programme across the 12 initial sites (“the 12 Sites”) and consequently, officers commenced the procurement of a Joint Venture Partner via an OJEU compliant process (as implemented by the Public Contracts Regulations 2015) through competitive dialogue.
4. This report informs Cabinet of the outcome of that process and is seeking approval from Cabinet on the award of Preferred Bidder status to the highest scoring bidder to enter the confirming commitment stage to finalise the terms of the contract and also to award and enter into the contract on the basis set out in this report.
5. This report also summarises the rationale for this venture and provides information on the consultation and procurement processes. It also details the intended outcomes of the initiative and the legal and financial implications. More detailed information is contained within the Council’s Business Case which is appended to this report and in the Exempt Agenda Report.
6. Cabinet is asked to recommend to Full Council the Council’s contribution to the cost of delivering the scheme, noting the significant regeneration for the 12 sites, the contribution towards Havering’s target for housing delivery, including the provision of new affordable homes for local people, and the expected financial returns.

RECOMMENDATIONS

That Cabinet:

1. **Approve** the inclusion of a budget of £63.3m equity for the scheme together with a budget of £50.5m for potential land acquisition/CPO costs within the proposed HRA capital programme that will be considered by Cabinet in February 2018 in the annual rent setting and capital programme report and this is recommended to Council for final approval in February 2018.
2. **Agree** to award Preferred Bidder status to BIDDERS C.

Subject to the approval of the required budget and funding at recommendation 1 above, that Cabinet:

3. **Agree** to establish a JVLLP for the purpose of meeting the Council's regeneration objectives for the 12 HRA sites by entering into a Members' Agreement with BIDDER C on the basis of the Business Case and Legal Summary contained in the Exempt Agenda Report.
4. **Agree** to delegate to the Lead Member for Housing, after consultation with the Director of Neighbourhoods, the authority to agree the name of the JVLLP, negotiate the final detailed terms of the agreements being entered into, and authority to agree that the Council enter into the following agreements:
 - Members' Agreement;
 - Development Agreement;
 - Any ancillary agreements or documents necessary to give effect to the setting up of the JVLLP in accordance with this Report and its appendices (including the Legal Summary appended to the Exempt Agenda Report).
5. **Authorise** the JVLLP to enter into the Development Management Agreement with BIDDER C when in agreed form.
6. **Agree** to delegate to the Lead Member for Housing, after consultation with the Director of Neighbourhoods, authority to finalise agreement on the terms of the Development Management Agreement referred to in recommendation 5 on behalf of the Council as Member of the JVLLP established in accordance with recommendation 4.
7. **Agree** to delegate to the Lead Member for Housing, after consultation with the Director of Neighbourhoods, authority to approve the first Business Plan of the JVLLP on behalf of the Council.
8. **Authorise** the disposal of land to the JVLLP on the terms set out in this report, subject to the approval of the Secretary of State where required, (as detailed in the *Land disposal* paragraphs of the Legal Implications section of this report) and **agree** to delegate authority to the Lead Member for Housing, after consultation with the Director of Neighbourhoods, the authority to finalise the terms of such disposals.
9. **Authorise** the Director of Neighbourhoods to consider the appropriation of land for planning purposes, subject to agreement of the Secretary of State, to facilitate the redevelopment of the 12 Sites and **approve** an application to the Secretary of State for appropriation under section 19(2) of the Housing Act 1985 and potentially appropriate back to housing purposes all or part of the land as may be considered appropriate in due course. (The precise areas of land to be appropriated to be decided by the Director of Neighbourhoods).
10. **Recommend** to full Council to make an application to the Secretary of State, where required, for the disposal of property and land (the precise areas of land to be decided by the Lead Member for Housing after consultation with the Director of Neighbourhoods) under section 32(2) of the Housing Act 1985.
11. **Note** the updated Consultation and Engagement strategy as detailed in paragraphs 9.1 to 9.13 of this report.

- 12. Note** the updated Equalities Impact Assessment as referred to in the Equalities Implications section of this report.
- 13. Note** the update provided to Cabinet in the Local Lettings Plan report as it relates to these decisions.
- 14. Agree** to delegate to the Lead Member for Housing, after consultation with the Director of Neighbourhoods, authority to approve the consultation and communication plans for the regeneration of the 12 HRA Sites.
- 15. Authorise** the Director of Finance to provide state aid compliant investment of equity/loans/capital expenditure the JVLLP within the funding provided in the Capital Programme and in accordance with the business plan and on the terms set out within the Member's Agreement.
- 16. Agree** to delegate to the Leader, after consultation with the Chief Executive, the appointment of nominees to represent the Council on the JVLLP Board and indemnify them under the Local Authorities (Indemnities for Members and Officers) Order 2004 once the JVLLP has been set up.
- 17. Agrees**, subject to approval of the over-arching Governance Report on the operation of the 12 Sites, Rainham and Bridge Close schemes, to the proposals for resolution of any Reserved Matters set out in such report.
- 18. Note** the governance framework and staff resources required to develop and deliver the 12 Sites and other economic development schemes also presented for consideration and approval by Cabinet in January 2018.

REPORT DETAIL

1 Background

- 1.1 On 15th June 2016 the Council's Cabinet agreed to the development of new council housing across an initial tranche of 12 housing sites, and instructed officers to commence consultation, and to initiate the procurement of a development partner. The overarching vision for the programme is to successfully establish vibrant and connected communities, supported by the provision of good quality new homes, tenure diversity, high quality public spaces, and well-used community facilities within safe and secure environments where people want to live and participate in local activities.
- 1.2 The intention is for the Council to establish a long term development partnership to facilitate a programme of estates renewal with an experienced private sector development partner (PSDP). The strategy is designed to use the increased value of the land through intensification of estates and higher house prices to off-set the cost of the provision of new affordable homes.

1.3 A requirement of the project is for the Council to retain the long-term freehold of the land, retain management of the affordable housing, jointly deliver the new developments and to aim to double the amount of affordable housing on the estates. In addition, a set of objectives were set prior to the procurement of the PSDP that were to be used to guide the entire procurement process:

The Council's objectives for the programme are:

- To contribute to meeting the wider housing needs of Havering through the regeneration and transformation of the Council's existing stock for predominantly residential use; to provide a choice of good quality housing for people at all stages of life, increasing tenure diversity through affordable rent, shared ownership, private rent, market sale and sheltered housing.
- To deliver high quality residential led development that is commercially viable and generates receipts for cross subsidy to ensure the programme is sustainable.
- To achieve development returns, income and/or a range of secure revenue streams for the Council through re-provision of all Housing Revenue Account (HRA) stock lost through redevelopment with new HRA stock matching the existing tenure.
- Where viability permits, the developments should also aim to deliver additional HRA rented units to the level of existing stock on estates previously purchased under the Right to Buy scheme.
- Where viability permits, the developments should also aim to deliver additional affordable housing being up to 30% of all additional units above existing "all tenure" stock levels, thereby achieving over 40% affordable housing across the 12 sites. This additional affordable housing target tenure split to be equal numbers of HRA rented and shared ownership dwellings.
- Increased affordable housing numbers to help mitigate the homelessness pressures in the General Fund.
- Improve the viability within the Asset Management Strategy by reducing the cost of maintaining existing poor viability buildings.
- The freehold of the land is expected to remain in Council ownership (except any freehold properties built for outright sale) (though naturally long leases will be granted to purchasers of units built for open market sale).
- Where tenants wish to move back to a site, and there is suitable accommodation to meet their needs, they will be able to do so.

1.4 In October 2016 it was reported to Cabinet that officers would start the procurement of the PSDP via a process called competitive dialogue. This commenced in March 2017 with soft market testing leading to the start of a formal OJEU compliant process in May 2017.

1.5 This report provides Cabinet with information on the outcome of the procurement exercise along with additional information on the setting up of the proposed JVLLP. The Business Case appended to this report contains more detailed information to support this Cabinet report.

2 Summary of previous decisions

- 2.1 The regeneration of the 12 Sites and provision of new housing, including affordable housing and housing for older persons are Council policy as set out below:

Havering Draft Local Plan 2017

- 2.2 At its July 2017 meeting, Council approved the Proposed Submission Havering Local Plan for publication and consultation under Regulation 19 of the Regulations prior to submission to the Secretary of State. This includes the 12 sites for regeneration and housing delivery. The Local Plan emphasises the importance of ensuring infrastructure, including education and local health facilities and also the provision of affordable housing. The 12 sites are referenced in the Housing Position Statement 2017. The Housing Position Statement document is a key part of the evidence base of the Local Plan and is an important part of the assessment into the 'soundness' of the Local Plan. It addresses how Havering will ensure there are enough homes in the borough in line with the London Plan requirements. It looks at matters including housing delivery supply, need and tenure. It makes explicit reference throughout to the significant role and contribution that the Council's Estates Regeneration programme will have in ensuring there are enough homes in the borough and our residents have the opportunity to live in high quality places as part of settled and inclusive communities.

Romford Development Framework 2015

- 2.3 The Romford Development Framework approved by Cabinet in July 2015 forms part of the evidence base for the emerging Havering Local Plan. The Framework indicated delivery within five years, i.e. by 2020. The Waterloo Estate is within this area and will facilitate the delivery of the wider regeneration of Romford

Romford Housing Zone June 2016

- 2.4 Cabinet agreed to accept Housing Zone status for Romford from the Greater London Authority (GLA). Included within the zone is Waterloo Estate. Whilst the original bid identified the delivery of a modest 220 new homes through infill development, full regeneration of the site partly funded by Housing Zone funding from the GLA, is set to deliver a minimum of 1100 homes.

Rainham and Beam Park Housing Zone

- 2.5 This was the first of the areas in the borough to achieve the status of a housing zone with the GLA. This area will be transformed into a new community called Beam Park. Of the 12 sites, Napier and New Plymouth, is in the Housing Zone and will help deliver the vision for the regeneration of the area.

12 HRA Sites Regeneration programme

- 2.6 Various reports have been presented to Cabinet over the last two years regarding the use of existing estates to increase housing and affordable housing provision within the borough:
- a strategy to increase affordable rent by up to 30% on the 12 Sites.
 - an overall increase in affordable housing provision across the twelve sites by over 100% by providing in excess of 300 low cost affordable homes.
 - authority to start the procurement of a private sector partner to deliver the Council's vision for the 12 Sites through a competitive dialogue process

- delegation of authority to start to procure existing freehold and leasehold properties by negotiation and take reasonable steps to identify land which cannot be acquired by negotiation and appoint the relevant consultants in order to assess the need for a potential Compulsory Purchase Order (CPO).
- authority to start the decant process for existing tenants on the estates including the service of demolition notices.
- approval to enter into extensive consultation with residents regarding the regeneration of estates and the detail of the decant offer.

Review of Older Persons Housing

- 2.7 Reports have been presented to Cabinet in 2016 identifying the need for improvements in the older persons housing provision in Havering. The review identified the over-provision of standard sheltered housing in the borough despite the anticipated increase in number of older and frailer people in the borough. It identified the need for more extra care sheltered housing and provision for those suffering with dementia plus the option for purchase. It also identified that a large amount of the existing provision was not to the standards required for providing modern housing within which adequate levels of care could be provided. The 12 Sites project is helping to deliver that vision.

Havering Housing Strategy 2014-17

- 2.8 The Housing Strategy identifies the need for the provision of all forms of housing and in particular the need to provide affordable homes for local people taking account of the supply and demand data that is available. This project is a key part in improving the supply of new homes that are affordable to local people.

Homelessness Strategy and Allocation Policy

- 2.9 The current homelessness strategy is a sub-strategy of the Housing Strategy. It is now being reviewed as part of the work needed to prepare for the impacts of the Homeless Reduction Act 2017. However, there is an identified need for the provision of affordable homes that meet the needs of vulnerable people who live in the borough at rents they can afford. In addition, we know that there are opportunities to enable existing tenants to move into low cost home ownership properties, thus freeing up affordable rent properties. .

HRA Business Plan 2017 – 2047

- 2.10 The HRA 30 year Business Plan is reported to Cabinet annually as part of the rent setting and budget setting process each February. In addition, an update of the plan was presented to Cabinet in November 2017 identifying the potential impact of delivering the 12 estates programme. Whilst the HRA can support the delivery of the new build via the JVLLP, there is an additional identified need to re-provide new affordable rental units in the HRA because of the financial impacts of the number of homes lost through Right to Buy. In addition, the provision of new housing enables the spending of RTB receipts on new homes thus avoiding repayment to the DCLG at a penal rate of interest.

Asset Management Strategy 2016

- 2.11 The latest review of the Asset Management Strategy and Plan presented to Cabinet in 2016 identified several poorly performing assets in the portfolio. These properties essential drain money out of the HRA as they cost more to maintain than

the income provided through the use of the asset. The worst performing properties are removed through this project.

3 The 12 Sites

- 3.1 The Housing Regeneration programme comprises 12 sites identified in the table below. These are the initial sites identified as offering the greatest potential for the provision of new affordable homes or requiring intervention due to the costly or unacceptable quality of housing. The Council intend, where appropriate, to bring forward further sites for inclusion in the JVLLP at a future date.
- 3.2 Waterloo Estate, Napier and New Plymouth, Oldchurch Gdns, Delta TMO and Farnham, Hilldene and Chippenham are all General Needs housing, or council housing for all ages. Maygreen Estate is a General Needs estate but with the inclusion of Park Lane Sheltered Scheme. Queen Street, Solar, Serena and Sunrise, Royal Jubilee Court, Brunswick Court, Dell Court and Delderfield are Sheltered Schemes.

Site Name	Ward	Rented homes	Leasehold Homes	Total Homes
Waterloo Estate	Romford Town	171	73	244
Queen Street	Romford Town	31	0	31
Napier and New Plymouth	S. Hornchurch	86	11	97
Solar, Serena and Sunrise	St. Andrews	55	0	55
Maygreen Estate	Hylands	88	23	111
Oldchurch Gdns	Brooklands	64	22	86
Delta TMO (Elvet Ave)	Squirrels Heath	45	18	63
Farnham, Hilldene and Chippenham	Gooshays	0	0	0
Royal Jubilee Court	Pettits	79	0	79
Brunswick Court	Cranham	47	0	47
Dell Court	St Andrews	29	0	29
Delderfield	Pettits	14	0	14
Total		709	147	856

Existing number of homes to be demolished.

Note 1: Waterloo Estate contains 12 hostel places – not included above.

Note 2: 114 long term empty sheltered homes as not fit for purpose.

- 3.3 One of the reasons for including the sheltered schemes in the programme was that many of the homes were poor quality or bedsit accommodation and hard to let. In all, across the sheltered schemes above, there were 114 vacant properties leaving 595 tenanted council homes on the 12 sites included in the programme. Of those 595 occupied homes, 181 were sheltered homes and 414 were general needs homes. In addition, on the General Needs sites (not sheltered), some homes had been lost through the Right to Buy. Across the estates there were 147 leasehold or freehold properties. The total number of permanent homes on the sites is 856.

3.4 The Council undertook initial capacity studies for each of the sites. These indicated strong potential to substantially increase the number of homes across the sites whilst at the same time maximising the opportunities for regeneration and place shaping. Indicative numbers of new homes identified at this stage are set out below:

Site Name	Ward	Rented homes	LCHO/sales	Total Homes
Waterloo Estate	Romford Town	237	863	1,110
Queen Street	Romford Town	7	27	36
Napier and New Plymouth	S. Hornchurch	150	50	200
Solar, Serena and Sunrise	St Andrews	60	140	200
Maygreen Estate	Hylands	100	100	200
Oldchurch Gdns	Brooklands	100	200	300
Delta TMO (Elvet Ave)	Squirrels Heath	45	305	350
Farnham, Hilldene and Chippenham	Gooshays	0	63	63
Royal Jubilee Court	Pettits	45	105	150
Brunswick Ct	Cranham	15	35	50
Dell Court	St Andrews	20	20	40
Delderfield	Pettits	15	15	30
Total		794	1,925	2,719

Capacity Study – potential number of homes.

3.5 The numbers above became the base-line requirement for the programme. At the high level, the total rented homes of 794 is further split down to 674 general needs rented homes and 120 extra-care sheltered rented homes. When compared to the numbers above, this is an increase in general needs homes of 63% and a decrease in sheltered homes of 34% (supported by the Older Persons Housing Review)

3.6 The additional requirement for the procurement exercise was to provide in excess of 300 low cost home ownership homes, which are also classified as affordable housing. Adding this to the 794 rented homes gives a total of 1094 affordable housing to be provided across the 12 sites: an overall increase of 84%. These figures are summarised for comparison in the table below:

	Now	Future	Change
Total number of homes	856	2719	+318%
Occupied General Needs homes	414	674	+63%
Occupied Sheltered rented homes	181	120	-34%
Low Cost Home Ownership	0	300	+300
RTB losses	147	0	-147
Total occupied affordable homes	595	1094	+84%

3.7 The target of providing 30% of all new homes as affordable is currently standing at 30% with the target split of 50:50 rent to low cost home ownership (LCHO) currently at 46:54 in favour of LCHO. It is anticipated these numbers will achieve the targets set following further negotiation with our PSDP.

	Target	Achieved
% of additional homes that are affordable	30%	30%
Affordable homes proportion (rent:LCHO)	50:50	46:54

3.8 One of the principles to be tested through the procurement exercise was the level to which the market would be able to increase the baseline number of homes on the sites, whilst keeping within reasonable density levels, and the extent to which more affordable homes could be delivered. The base-line was built into the procurement objectives.

3.9 Due to the size of the potential development on all 12 sites and the decant and financial viability issues it would not be practicable to start work on all sites simultaneously. It was therefore proposed that the following 4 sites are prioritised:

- Waterloo Estate
- Queen Street (part of the Waterloo Estate).
- Napier & New Plymouth
- Solar, Serena & Sunrise Court

3.10 Whilst these four sites are only 25% of the total sites, they would provide nearly 50% of the total new housing via this project. The next phase of sites to be brought forward will be reviewed once the JVLLP has been set up. The prioritisation of sites agreed at Cabinet in October 2016 was as follows:

- Waterloo Estate,
- Queen Street Sheltered Scheme,
- Napier and New Plymouth,
- Maygreen Estate,
- Park Lane Sheltered Scheme (part of Maygreen Estate),
- Oldchurch Gardens,
- Farnham, Hilldene and Chippenham Road
- Solar, Serena and Sunrise Sheltered Scheme.

3.11 From this priority list the first phase of sites is Waterloo Estate (including Queen Street Sheltered Scheme), Napier and New Plymouth and Solar, Serena and Sunrise. The next phase will be chosen from the above list and will be subject to an assessment of financial viability.

3.12 Part of the procurement process is to establish a set of metrics that will be used to assess the value for money for the costs of construction on the further sites as they are brought forward. Each bidder is aware that the parameters that they submit for the first four sites will be set and used to assess the delivery of the future sites.

3.13 As the dialogue sessions progressed solutions have been sought from each bidder to show how value for money will be achieved throughout this relationship. The first key principle established is that the Council is a joint member of the board and will

see all costs and revenues associated with the contract. Secondly, each bidder has identified that they intend to procure, through formal tendering processes, all works packages and these will be reported to the JVLLP board for acceptance.

4 Rationale for the proposed JVLLP and for the procurement method

4.1 The rationale for the preferred procurement method was reported to Cabinet in October 2016. The advantages of a “Competitive Dialogue” process for the delivery of 12 discrete sites across a number of areas in the borough were and remain:

- Ability to shortlist and limit the number of bidders to participate in the tender through a prequalification process evaluating their financial standing, technical ability and experience.
- The minimum number of candidates to be invited to participate in the competitive dialogue stage would be three bidders.
- Competitive Dialogue is an iterative process, and can have multiple elimination stages to reduce the number of bidders/bids before calling for final tenders.
- Where there is an elimination stage, this involves a tender submission and an evaluation against pre-disclosed criteria and weightings.
- The competitive dialogue procedure permits the Council to negotiate with the bidders during the tender phases.
- Once the dialogue stage is concluded, the Council call for final tenders. Those tenders should "contain all the elements required and necessary for the performance of the project".
- Once the final tenders have been evaluated, there is a further opportunity to confirm commitments and finalise terms with the leading bidder (also called the preferred bidder) before the Council formally awards the contract.

4.2 There tends to be two methods for delivering large projects of this nature. They are; the recognised “Contractual Approach” where a development partner is appointed and a variation of this approach called the “Corporate Approach” where the authority would become a shareholder in a new Joint Venture vehicle (either an LLP or a company) with the Private Sector Developer Partner.

4.3 One of the critical deciding factors in deciding on the JVLLP approach was the level of control the Council wants over the developments both in terms of the number and type of homes built and the look and feel of the estates that are provided. The JVLLP approach allows the Council to exert a higher level of control and be more confident in the final delivery as they would be equal partners in the design of the estates rather than just exerting control through a purely contractual process or through the planning process. In addition, in the long term the land remains in the ownership of the Council (except for any freehold properties built for outright sale).

5 Procurement process and results

5.1 The overall project board set up to oversee this project was set up mid-2016 as the project was being reported to cabinet in June 2016. The procurement process is a major work-stream within the project. The timescales were designed to ensure that the process was rigorous enough to identify the right partner to deliver this

project as well as one that would encourage the widest interest and participation from the industry.

- 5.2 The procurement of works/services relating to the site regeneration is subject to the European Procurement Regime, as implemented in England by the Public Contracts Regulations 2015 (as amended) and the Concession Contracts Regulation 2016, necessitating a procurement process following the publication of an OJEU notice. The procurement was conducted under Concession Contracts Regulation 2016 as they were considered to apply given the JVLLP partner's investment and risk share.
- 5.3 There needed to be a strong understanding of the key issues involved in establishing regeneration vehicles such as a JVLLP, both legally and commercially. This includes awareness of the changing needs of the market, changing market conditions and Government policy context.
- 5.4 In order to properly steer the procurement, a significant amount of external support and challenge was sought. Firstly to review the assumptions made by officers in their initial assessment of the viability of the project and secondly to guide the procurement process itself.
- 5.5 One of the first activities completed after the October 2016 Cabinet was the procurement and appointment of a specialist multi-disciplinary consultancy team to lead on site due diligence and procurement of a joint venture development partner. This team comprised:
- Savills – Professional Team lead and advisors
 - Tibbalds and PCKO – Architectural, Planning and Design advisors
 - Gardner & Theobald – Cost Consultants.
 - Bevan Brittan – Legal Advisers.
- 5.6 The role of this team includes:
- Develop a detailed understanding of the Council's priorities and constraints for this programme,
 - Deliver a 'Competitive Dialogue' process in accordance with EU procurement law principles following the approach of the competitive dialogue process to procure a private sector development partner (PSDP), who will deliver the estate renewal programme in partnership with the Council,
 - Ensure the development opportunity is attractive to potential partners, commercially viable, and enabled the Council to secure the right commercial deal, mitigating risk and financial exposure,
 - Ensure Council priorities of increasing and maximising the supply of new mixed tenure housing, including replacing the existing amount of affordable housing currently on site are achieved,
 - Help to achieve additional value through wider regeneration that supports growth and sustainability, including improvements to the public realm, new schools, health and community facilities, providing opportunities for new businesses, alongside employment, skills and training,

- Ensure that the Council optimises the value of its assets which may include generation of capital receipts and income streams, while securing best consideration where this is required,
- Provide expert and timely advice, support and leadership throughout the project life cycle.

5.7 The commission fell into two phases:

- Phase 1: (Due Diligence):- review of existing proposals to establish suitable and commercially viable development proposals that were attractive to the Market and form a base case for achieving the Council priorities stated above.
- Phase 2: (Competitive Dialogue Procurement):- managing the Competitive Dialogue procurement to secure a suitable long term development partner

5.8 The procurement panel also drew on senior officers from across Havering and OneSource. The panel comprised Senior Housing Officers, OneSource Finance Officer, OneSource Procurement, Savills, and Bevan Brittan. This panel representation ensured that the procurement process drew on external professional expertise regarding development and regeneration, legal, commercial, procurement and housing expertise as well as local knowledge and technical HRA and General Fund expertise.

5.9 All of the financial aspects of the project were built into a financial dashboard used to identify the key financial inputs and outputs, including inputs from the HRA Business Plan. This financial modelling was reviewed and quality assured by KPMG as an external assessor. This organisation was procured by OneSource Finance and has been retained for further financial advice including tax advice.

5.10 The procurement process, with key dates is set out in summary below:

No.	Stage	Start	End	Participants
1	Concession notice published	12/05/17	12/05/17	52
2	Selection Questionnaire (SQ) period	12/05/17	13/06/17	10
3	SQ evaluation period	13/06/17	28/06/17	
4	ITPD period	30/06/17	11/08/17	6
5	ITPD evaluation period	14/08/17	11/09/17	
6	ITCD period	13/09/17	24/11/17	3
7	ISFT period	24/11/17	07/12/17	3
8	Final tender evaluation period	07/12/17	18/12/17	
9	Cabinet report for selection of preferred bidder	17/01/18	17/01/18	1
10	Final agreement of legal documents	23/01/18	22/02/18	1
11	Full Council approval of funding	21/02/18	21/02/18	
12	Formal signing of contract	22/02/18	22/02/18	1
13	Issue of contract award notification and start of 10 day stand-still period	23/02/18	09/03/18	1
14	Award of contract	10/03/18	10/03/18	

- 5.11 Once a preferred bidder has been selected, there will be a period for confirmation of commitments of the documentation to finalise the contract. On the successful completion of the preferred bidder stage the Council will then be in a position to decide to award the contract to the preferred bidder. If the Council proceeds to award then it will debrief unsuccessful bidders and conduct a 10 day standstill period prior to signature and concession award notice being placed in the OJEU. The future dates in the table above are projected dates and subject to Cabinet approval of the recommendations in this report and completion of activities and formal approvals after Cabinet.
- 5.12 The summary from the ISFT documentation provided to all three bidders (attached as **Appendix 1**) identifies the requirements for the final submissions from the three bidders. Many of the requirements were covered during the dialogue process. The Appendix also shows the weighting and scoring criteria that the procurement panel used.
- 5.13 The weighting identified in table 1 of **Appendix 1** shows the tender has been assessed 70% on the qualitative submission (criteria 1-6) and 30% on the commercial submission (criteria 7 legal and criteria 8 financial).
- 5.14 The anonymised outcomes from the scoring exercise are as follows:

Bidder	Total Score
Bidder A	65.25%
Bidder B	64.50%
Bidder C	84.00%

- 5.15 Based on these scores, the bidder with the highest score and who has demonstrated that they are best positioned to enter into the JVLLP with the Council is BIDDER C.
- 5.16 The full scoring matrices and additional information regarding the process are included within the Exempt Agenda Report papers.

6 Programme

- 6.1 Following the activities identified in paragraph 5.10 and 5.11 above, the key milestones that will drive the project going forward are set out in the table below. The detailed project programme, including public engagement and consultation, will be reported regularly through the Council, Housing Services and the JVLLP's governance arrangements.

Key anticipated milestones (first four sites)

Milestone	Anticipated date
Cabinet approval to establish a joint Venture Limited Liability Partnership.	January 2018
Council approval of Capital funding	February 2018

Approval of legal agreements including JVLLP Business Plan	February 2018
Cabinet approval of Compulsory Purchase Order resolution	June 2018
Viability review of remaining sites and agreement of phasing	Summer 2018
Submission of 1 st planning application	Summer 2018
Determination of 1 st planning application	January 2019
Vacant possession of sites	September 2019
Potential Start on Site	September 2019
First completions	May 2021
Scheme complete	January 2027

- 6.2 The competitive dialogue process has required selected shortlisted bidders to negotiate the terms of the agreement during the second dialogue stage. However, at the point at which the leading bidder is awarded “preferred bidder” they will have an opportunity to confirm commitments to finalise the proposed contractual arrangements prior to a final award decision.

Legal documents

The legal work on the structures and legal agreements will require further work during the confirming commitment stage to ensure the detail of the final submission documents are enshrined within final version documents that are satisfactory for the Council and Preferred Bidder to formally sign to enter into the JVLLP. This should require minimal changes to the documentation already provided.

Design work

This work was carried out during the tender stage and was indicative to inform the final bid. A lot of work was put into this by the bidders and partners, including initial discussions with Havering Planning Officers. However, all bidders are aware that these designs are indicative and the process of consultation with residents and neighbours of the sites will now commence to properly inform any final designs that are used in the planning process and final planning application.

Financial appraisal

The outcome of the procurement process has effectively set financial parameters that must now be adhered to by the preferred bidder as they enter into the design consultation stage in respect of the four initial sites. Items such as build costs,

margins, overheads, future sales revenues, funding arrangements etc. have been bid and accepted. However, this will now need to be reviewed in the light of the detailed work to be carried out on the design of the new developments mentioned in the above paragraph (during the operation of the joint venture). Items such as final numbers of units to be built, precise requirements for the infrastructure and potential additional acquisition of neighbouring land to enhance the development opportunities will now all need to be reworked and input into the financial models.

7 Development Parameters

- 7.1 Work will begin on the detailed development proposals for the first four sites, Waterloo Estate (including Queen Street), Napier and New Plymouth and Solar Serena Sunrise once funding for the JVLLP is agreed. This will be quickly followed by new viability assessments (as part of the operation of the JVLLP once established) on the remaining sites to identify numbers of new homes to be provided on those sites
- 7.2 As part of the consultation process undertaken with existing residents, a firm commitment has been given that they will be involved in the design stage for the new sites. The commitment has been given that the successful bidder will work with the residents on the four sites to shape how the new developments will look. Each of the bidders is skilled in resident engagement techniques and has confirmed this approach during the dialogue meetings. This engagement and consultation process is over and above the formal planning consultation process.
- 7.3 Although the detailed design process is yet to commence, it has been essential to set indicative parameters in order to undertake the financial appraisal which underpins the business case for entering into the JVLLP. The key outcomes based on current modelling are envisaged to be:
- In excess of 2,719 new homes.
 - Including a minimum of 42% affordable homes
 - On larger developments there is to be commercial floor space, likely to be flexible workspace and small retail/ leisure;
 - New and modern public realm experiences including modern waste disposal, public art, increase biodiversity linked to indigenous species.
 - New play and recreational space to be provided.
 - Consideration to be given to the provision for health, education, leisure facilities, transport etc. as part of the regeneration and place shaping process.
 - Consideration to be given to links with other developments in the surrounding areas and looking for joint delivery of infrastructure.
 - Significant social value contributions from the scale of the developments.

8 Ensuring delivery of infrastructure

- 8.1 The Council's involvement in the decision making of the JVLLP provides the ability to ensure that the delivery of social infrastructure is a prime objective of the regeneration activity as well as a planning requirement.
- 8.2 The baseline appraisal from Housing Services for the first four sites requires the delivery of over 40% of affordable housing for local people. This is in response to

our responsibilities as a stock-owning local housing authority and Registered Provider.

- 8.3 The use of Housing Revenue Account resources is a cost-effective way of delivering affordable housing. The Housing Revenue Account will retain all income from the properties as well as retaining ownership of the land other than where freehold housing is developed and sold.
- 8.4 The use of the HRA reduces risk in terms of financial planning by guaranteeing a purchaser for a significant number of properties.
- 8.5 The Council will also use its role in the JVLLP to negotiate inclusion of any key infrastructure requirements required not just on these developments but as a contributor to wider regeneration that is happening.
- 8.6 The JVLLP will make significant s106/CIL contributions to the Council. The allocation of these resources is a separate decision making process by the Local Planning Authority.
- 8.7 The nature and location of facilities to meet rising demand for primary health services or education facilities will be matters for the Clinical Commissioning Group to consider as part of its Primary Care Capacity Plan for Havering and for the local authority in its strategic education planning role. These organisations will be fully involved as the detailed planning for the developments take shape so that any requirements can be taken into account.
- 8.8 In the longer term, there is an expectation that the Council will be the freeholder of the entire developments (excluding any freehold disposals) and therefore have a greater level of control over the future stewardship of the new development and management of the new estates.

9 Consultation and resident engagement

- 9.1 The extensive consultation, for all residents on the affected sites, reported to Cabinet in October 2016 has continued:
 - To date, 82 site specific meetings have been held, including resident meetings and neighbour meetings for those affected by the housing regeneration programme.
 - A total of 61 site specific newsletters have been issued to date which detail the information provided. They also respond to site specific issues raised by residents in and between consultation meetings and provide a FAQs section.
 - 72 site specific meetings have been held in the sheltered schemes being retained.
 - There have been in excess of 2,100 attendees at the site specific meetings.
 - In addition to the site specific webpages, the *Building New Homes for Havering* is now active, giving residents and members access to updates and advice regarding the regeneration programme, and sub-programmes including the decant activity and compulsory purchase orders.

- Two additional staff briefings have been held since October 2016, updating staff on the progress of the programme and giving them an opportunity to gain an understanding of the journey we are taking residents, our customers, on.
- The regeneration programme has a continuous feature in the quarterly magazines *At the Heart* and *Sheltered Times*. In spring 2017, we released a Special Regeneration Edition, which updated all Housing Services' tenants and leaseholders on the Regeneration Programme.
- Social media postings have been used throughout the programme to update stakeholders on consultation meetings and project milestones.
- A stand was available at the 2017 Havering Show to discuss the regeneration programme with local people.
- In October 2017, Havering launched the Local Lettings Plan and Regeneration Decant Policy and Possessions Procedure Consultation enabling tenants to voice their views on both documents via an online survey.
- To date, consultations have been led and carried out by Council staff. Once the JVLLP has been established a joint approach to consultation, resident engagement and social cohesion that will allow us to create the sustainable communities on the new estates. The Council will remain the lead for this activity.
- Intensive support and reassurance continues to be provided on a one to one basis for any resident and their families worried about the renewal programme and potential decant process.
- A decant satisfaction survey records the outcome of the decanting process from the tenants' point of view.
- Specific information provided for leaseholders.

The offer to tenants

- 9.2 Every tenant on the 12 Sites has been offered and, the majority accepted, the opportunity to have a one to one meeting, at which their family is encouraged to be present. This meeting is designed to provide a comfortable environment to enable residents and family to ask any questions they may have about the programme and also for the tenant to provide the council with information needed to identify where they would want to move to as part of the decant process. This information is used to populate a "Decant Assessment Form" which is then signed by the tenant as a true record of their decant requirements. This process has proved to be a good way for the tenants and their families to engage in the entire process and for the council to fully understand how we can best support tenants through what is accepted to be a very stressful process.
- 9.3 The main issue is for the Council to be able to find suitable alternative accommodation for existing tenants. It is for this reason that the decant assessment form referred to above is so important. The offer made to tenants has been shaped over the many consultation events and is:
- Two reasonable offers of accommodation will be made.
 - The offers will be based on housing need.
 - All information regarding need will be taken account of in making matched offers.
 - Offers will be made through direct allocation and not via the bidding system.

- All verified information provided by the resident regarding need and requirements will be taken into account.
- Location of offer will be matched as far as possible to preferred location of tenant but will be subject to availability.
- All reasonable out of pocket expenses will be met via the disturbance payment process.
- We will take into account the wishes of the tenant where possible if this is outside of requirements identified as “housing need”.
- A one off statutory home loss payment of £6,100.

9.4 Havering are also offering an additional support package to make the process of moving easier. The help given to tenants includes using Council approved contractors to:

- organise the move including packing belongings, but not unpacking.
- unpacking can be provided to those who are most vulnerable.
- supply and fit new carpets and curtains chosen from a range of reasonably priced options
- disconnect and reconnect cookers, washing machines and similar equipment
- the above work is carried out at no cost to the tenant.

9.5 In addition, tenants can organise:

- post redirection
- water, gas and electricity and other utilities to be disconnected and reconnected
- and Havering will pay the reasonable cost of such work.

9.6 Paragraph 10.3 below shows progress with regard to offering and moving tenants on the first 4 sites to new homes.

Local Lettings Plan

9.7 The Local Lettings Plan is the document that provides full details on the re-housing options for those tenants who have to move off the sites because of the regeneration proposals. Associated with this document is the Decant Policy and Possession Procedure document. The council carried out a twelve week consultation process on these documents so that residents could have a further opportunity to give their views on the “offer” within the documents. The consultation was promoted in At the Heart, Sheltered Time and Living publication; during the estate open meetings, one to one sessions, social media posts, and direct letters to tenants on the affected sites. Comments received outside of the online survey have also been taken into consideration. This was the subject of significant consultation prior to it being uploaded onto the Council website in November 2016. This document has been used to inform the decants and buy backs that have been carried out, thus far by negotiation. However, as the timetable moves closer to the deadline for achieving vacant possession of the sites, the formal consultation exercise is being carried out ahead of any formal possession proceedings.

9.8 The Local Lettings Plan report containing detailed information on the consultation process is also on the agenda for January 2018 Cabinet.

The offer to leaseholders and freeholders

- 9.9 At each event with residents, information is also provided for leaseholders who are impacted. The offer for them is that we will buy the properties back from them as inevitably on these sites the properties were first purchased under the RTB system. Full information on the take up of the offer is provided in the Vacant Possession update in paragraph 10.4 below.
- 9.10 The Council is offering to buy back residential properties on the sites at a fair market valuation. Havering is working with three local agents who will provide “independent” valuations on properties so that negotiations can agree a contract price to achieve vacant possession. In the event that a valuation cannot be achieved, the owner can obtain their own independent valuation to help negotiations. The Council must offer a fair market valuation as failure to agree a price will ultimately result in a CPO situation. In such a circumstance, the valuation made by the District Valuation Service will be set at fair market value and the Council must be seen to be acting fairly. In addition the Council must pay a 10% compensation payment for resident owners and 7.5% for absentee owners.
- 9.11 At each of the sites that are under-going regeneration residents have been encouraged to set up a more formal Resident Group. This group is to be chaired by a resident with administrative support from the Havering tenant engagement team. The resident group themselves would set the agenda and officers attend to provide updates and any information requested as well as taking back information to inform the programme. The groups were also intended to challenge officers to ensure information is provided in an understandable manner and accessible format.
- 9.12 The Council has also appointed TPAS to provide independent and free advice to the residents. TPAS have provided contact details so that any resident can contact them for independent advice. At the contract meeting held with TPAS towards the end of October 2017, the following update was provided:
- Seven calls have been made to TPAS via this service. The main issues raised with TPAS are:
 - Quality of void works being done before decanting takes place
 - Delays on payments been received
 - Problems achieving out of borough moves
 - Recharges for void works
 - TPAS provided comparison information with a similar service they have been providing elsewhere. The Freephone service has taken more than 600 calls compared to the 7 for Havering in the same period of time which TPAS says reflects the quality of the information and engagement work being carried out in Havering.
- 9.13 A full update on the dates of consultation meetings and number of attendees is reproduced in the Business Case at Appendix 8.11 attached to this report.

10 Vacant possession update

- 10.1 Across the first 4 sites to be developed there are a number of existing residents. They will either be tenants or leaseholders/freeholders. The following tables

provide details on the occupancy of the sites at the start of this process back in June 2016 when Cabinet gave its agreement to move forward with the regeneration programme.

10.2 The decant process has been informed by the extensive consultation with residents and is being carried out via direct offers of accommodation based on the decant assessment form completed with every tenant. This details the type of property that would meet the needs of the tenant and their household. Offers of suitable accommodation are based on housing need, not on a like for like basis. Two offers of suitable accommodation are being made to tenants via this route. Failure to accept either of these properties will, in the course of time result in a more formal approach to obtain possession. However, even whilst the more formal route is being pursued, officers will continue to work with tenants to make the two reasonable offers.

10.3 The table below shows progress on decanting tenants from the four initial sites since January 2017 when the decanting process started. Queen Street and Solar, Serena, Sunrise are sheltered schemes. (As at 1st January 2018).

Site	Tenancies Oct 2016	Tenancies decanted	Tenancies matched	Tenancies remaining
Waterloo Estate	171	58	4	109
Queen Street	28	28	n/a	0
Napier/New Plymouth	86	51	3	32
Solar, Serena, Sunrise	30	4	4	22

10.4 The table below shows progress in relation to the negotiated purchase of leasehold and freehold homes on the first phase sites. (As at 1st January 2018). There are no leasehold properties in sheltered schemes as the RTB does not apply.

Site	Total fhld/lhld	Properties purchased	Under negotiation	Fhld/Lhld remaining
Waterloo Estate	71	24	24	23
Napier/New Plymouth	10	4	2	4

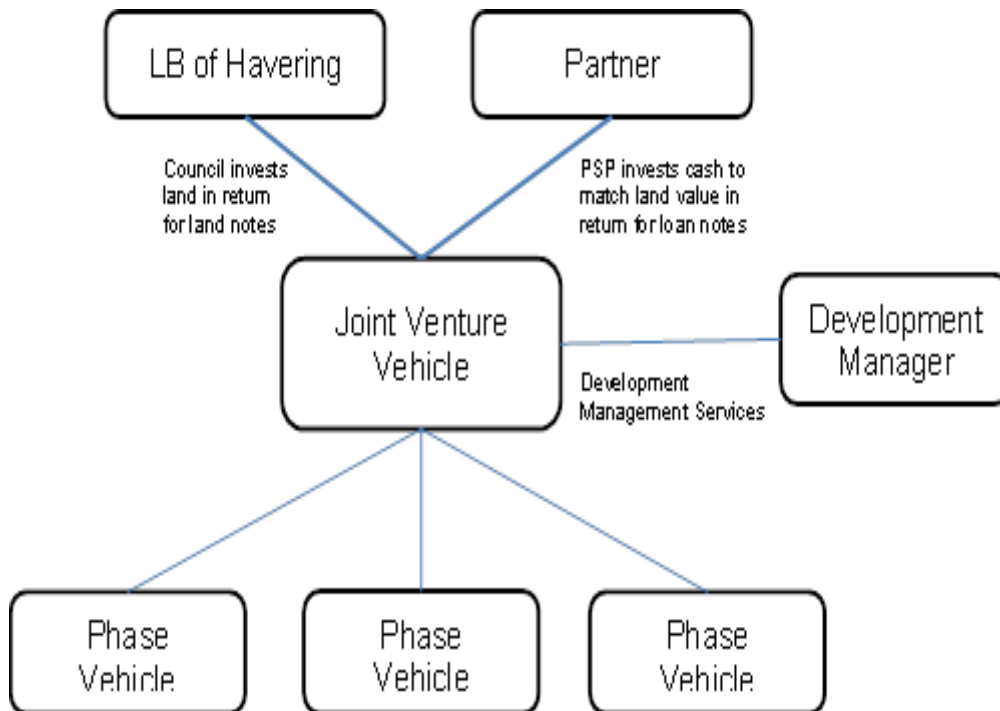
11 Joint Venture Limited Liability Partnership Structure and Funding

11.1 The overall JVLLP structure and governance arrangements are represented in the diagram below. The detail is set out in the draft Members' Agreement and summarised in the Legal Summary contained in the Exempt Agenda Report. The key principle is that this is a 50:50 shared liability vehicle where both parties put in equal amounts of funding and receive equal returns.

11.2 The funding for the JVLLP will be directly from the HRA and there will be no General Fund monies required for this partnership.

11.3 The funding proposal for the JVLLP is that both parties will provide equity up front and the JVLLP will then find third party debt to fund the remainder of the costs. The ratio of equity to debt is 30:70. As each partner is required to put in the same

amount of equity, both parties will be providing 15% of the total funding required as equity, thus making up the 30% required initially.



11.4 Under the proposed structure the Council will remain the freehold owner of the Sites and thereby be entitled to the receipt of ground rents. Depending on the preferred bidder's funding structure there will be either the grant of a Building Lease or Licence to give the JVLLP the right to enter the relevant Site to build the affordable housing. Once that housing has been built the Lease/Licence will come to an end and the Council will continue to own and manage such housing. Long leases will be granted to tenants of the shared ownership units but the Council will continue to retain the freehold reversionary interest of those units.

11.5 The position is similar for the units on the Sites that will be built for open market sale, thereby subsidising the building of the affordable units. As with the shared ownership units, long leasehold interests will be granted to individual purchasers, though here responsibility for the management of such units will principally lie with the JVLLP.

12 Risk Management

12.1 The financial and legal risks associated with the decisions requested in this report are addressed in sections below. Moving forward, there will be a number of means by which the Council, as JVLLP member, should ensure robust and effective risk management including, but not limited to, financial and legal matters.

12.2 The JVLLP Board will be responsible for ensuring that project risks are being properly assessed, monitored, and mitigated. The Development Manager will

provide services in support of that, including the risk register. The Board will also be responsible for establishing any strategic risks that impact on the activities of the project, and ensuring that these are reflected in the project risk register where appropriate. Risks may be escalated to the JVLLP Members.

- 12.3 The Council will also have its own arrangements for monitoring and reporting risks at different levels of detail:
- via reports to Members relating to the 12 Sites and the JVLLP including the periodic review of the Business Plan;
 - by the Council's client function and 12 Sites officer project group;
 - under the Council's performance monitoring system; and through other governance and financial reports to Members as advised by the Council's s151 and monitoring officers;
 - consideration by Overview and Scrutiny periodically.
- 12.4 Further risks and sensitivities are detailed in the full Business Case attached to this report.

REASONS AND OPTIONS

13 Reasons for the Decision

- 13.1 By entering into a Joint Venture Limited Liability Partnership, the Council secures significant investment and specialism from the private sector whilst acquiring a degree of control over the scheme. The Council is therefore better placed to secure its regeneration objectives for the 12 Sites than if it relied solely on its role as planning authority and its land assembly powers and/or through a purely contractual arrangement with a private sector partner.

14 Other options considered

- 14.1 A detailed options appraisal of the following options was undertaken:
- Developer led - Council adopts a 'do nothing' approach
 - JVLLP with BIDDER C
 - Commence an OJEU process to select a developer
 - Commence an OJEU process to select a JVLLP partner
- 14.2 The following criteria were used:
- Ensuring a comprehensive development
 - Direct influence over design and management standards
 - Ensuring delivery of infrastructure
 - Meeting deadlines to retain GLA Housing Funding
 - Minimising investment and risk
 - Obtaining a financial return from the scheme
 - Cost of procurement

IMPLICATIONS AND RISKS

15 Financial implications and risks

- 15.1 The report seeks Cabinet approval in principle to invest a maximum of £63.3m of capital expenditure into a Limited Liability Partnership to deliver the regeneration of 12 Housing Revenue Account (HRA) sites. This investment is contained within the HRA and is in addition to the Approved HRA Capital Programme 2017/18 to 2019/20. The bulk of this investment would be in the form of HRA land, the net value of which is currently estimated at £59.7m (all 12 sites), with the remaining £3.6m as cash funding. The report also requires a budget of £50.5 m in respect of land assembly/ CPO costs to enable the Council to provide vacant possession. It will therefore require consideration and approval by Full Council. Therefore, subject to Cabinet/Council approval of the recommendations within this report, the scheme will be included in the proposed capital programme to be considered as part of the 2018/19 HRA budget process and will be subject to approval of the Capital Programme and Treasury Management Strategy in February 2018.
- 15.2 A total revenue surplus for the HRA of £51.7m is forecast as a result of this regeneration scheme after meeting capital financing costs of borrowing. Although a deficit of £0.3m will be incurred over the first year and will require HRA revenue resources to support it until net income streams are generated. An estimated capital receipt of £63.3m is expected to be realised at the end of the scheme.
- 15.3 The financial details are contained within the exempt agenda report.

16 Legal implications and risks

Background

The establishment of, and investment in, the proposed JVLLP by the Council involves the use by the Council of a number of different powers. As referred to below, the Council has taken external legal advice regarding its overall approach and has been advised that the legal structure is appropriate for the transaction. The specific areas that are relevant are:

- the powers under which the JVLLP is permitted to enter onto the Sites to carry out the development and subsequently dispose of long leasehold interests for the shared ownership and open market units,
- the regulations relating to the use of the HRA account,
- the powers to enable the Council to obtain clean title and vacant possession of the first 4 Sites,
- ensuring that State Aid regulations are complied with, and
- the regulations under which the JVLLP is being procured.

Powers

Land disposal

The Council intends to use the power to override easements and other rights in section 203, Housing and Planning Act 2016 for the property to be disposed of to the JVLLP. To do so, it must first appropriate the land for planning purposes. Under section 19(2) of the Housing Act 1985, land held for the purposes of Part II housing (commonly referred to as HRA land) cannot be appropriated without Secretary of State (SoS) consent when it includes a house or part of a house. The Council will therefore need to apply for SoS consent. Once the land has been appropriated, if the Council intends to grant a build lease to the JVLLP then this will constitute a disposal. The Council has the power to dispose of property appropriated for planning purposes in section 233 of the Town and Country Planning Act 1990.

If there is any HRA land that will not be appropriated, or if appropriated land is returned to the HRA before development, SoS consent would still be required before it could be disposed of to the JVLLP (disposal is broadly defined and includes not only a transfer of the freehold but also the granting of a lease, as is the intention here). However, a general consent has been issued by the SoS that would be relevant in these circumstances. Consent A3.2 of the General Housing Consents 2013 permits disposal of vacant land, which includes land on which dwellings have been built provided (1) they have been demolished, or (2) are no longer fit for habitation and are due to be demolished. Another general consent (A3.1.1) permits disposal for market value of land including houses but this cannot be used where the disposal is to a body in which the Council has an interest save for the first five disposals in a financial year. This is therefore of limited use for the current project.

The Council has a broad power to appropriate land for the purposes of Part II housing under section 19(1) of the Housing Act 1985. This power can be used by the Council to transfer the freehold of the land back into the HRA. It also has a broad power under section 17 of the Housing Act 1985 to acquire land or houses for the purpose of Part II housing. This power can be used to acquire completed units from the JVLLP.

Housing and investment

The Council has a broad power to provide housing accommodation under section 9, Housing Act 1985 that can be relied on in this project. Section 9 contains no restriction on the type of tenure that must be used if the Council decides to provide the accommodation, or on whether the Council must retain ownership. The power can be relied on where some properties will be developed for market sale as long as that element is undertaken to cross-subsidise the affordable housing, which we understand is the case here.

The Council has the power to make capital expenditure from the HRA in respect of houses within the HRA (Item 2, Schedule 1, Local Government and Housing Act 1989). This includes acquiring share capital, and can be relied on in this project as the Council will be purchasing completed units from the JVLLP for social rent and shared ownership.

Whilst there are no explicit powers for participation in a JVLLP, reliance is often placed upon s111 Local Government Act 1972 (and the Greater Manchester Trusts case) to participate in companies or other bodies such as a JVLLP. The form of vehicle is a subsidiary matter to the housing and other related powers that the Council could use to redevelop the area. Alternatively (or additionally) the Council may rely upon the general power of competence in section 1 of the Localism Act 2011, which enables the Council to undertake any activity an individual could undertake, subject to any statutory constraints on the Council's powers. Since an individual would be able to participate in a corporate joint venture, in the same way the Council would be able to participate in a JVLLP, by subscribing equity and providing loans and other financial investment for the redevelopment of the 12 sites. Since the regeneration is being pursued for housing purposes rather than commercial purposes no reliance needs to be placed upon section 4 Localism Act 2011.

State aid

The State aid rules prohibit State resources being used to provide selective financial support to third parties that could distort competition and affect trade between Member States. The Council will be receiving funding from the GLA under a borough intervention agreement for the reimbursement of eligible project costs, which we understand include site assembly and obtaining vacant possession. The provision of such funding is subject to the State aid rules, and we have previously provided detailed advice about their application to the GLA funding. In summary, it will not breach the rules if the Council relies on the exemption for services of general economic interest (**SGEI**). These are services which can be identified as being of particular importance to the public, and which are generally delivered pursuant to public service obligations. Member States have discretion as to which services they classify as being SGEIs, but the SGEI Commission Decision (2012/21/EU) expressly includes the provision of social housing for disadvantaged citizens or socially less advantaged groups.

When transferring land or providing any other resources to the JVLLP, the Council can rely on the market economy operator principle as long as it does so on terms that would be acceptable to a private operator in similar circumstances. This is an exemption that has developed in the courts and decisions of the European Commission, and provides that there will be no aid where payment is on market terms because there will be no subsidy from State resources. One of the methods for calculating what these are for payments made for services is to select the recipient by way of a competitive tender procedure under the EU procurement rules, as is the case here.

Best Value

The Council has had regard to its obligations under section 1 Local Government Act 1999 to secure continuous improvement in the way in which its functions are exercised having regard to economy, efficiency and effectiveness. The Business Case appended to the report sets out the case for intervention and the range of options that have been considered. The Council considers that the 12 Estates

project currently being evaluated to be the most economic, efficient and effective way of discharging the Councils housing duties in the longer term.

Social Value

The duty under the Public Services (Social Value) Act 2012 has been considered as part of the procurement process. The Business Case outlines the process that will be adopted with the successful private sector development partner to drive the social value outcomes that the council wishes to see.

General

The Council has taken external legal advice regarding its overall approach to the project and has been advised that the Council is acting lawfully, and that the legal structure is appropriate for the transaction. Public law constraints will apply to the project, including the Council's fiduciary duty to act prudently with public monies entrusted to it. The Council therefore must establish (and maintain a full audit trail to support) that the project and its various components are 'intra vires' and that the decision to undertake the project is made after having given due and proper consideration to all relevant factors (disregarding irrelevant factors) and in accordance with normal public law considerations.

Local authority involvement in a JVLLP is now relatively common but has not been tested in the courts, until now. The basis of a JVLLP in LB Haringey has been challenged along with the lack of consultation undertaken on the proposals and the equalities impact assessment of that project. That case will be monitored but the Haringey JVLLP is much wider than the housing related JV in this case and so even if there is a negative outcome for Haringey it does not mean that the Council is unable to participate in a JVLLP.

The JVLLP is a separate legal entity and as such has legal capacity to make planning applications and appeal adverse decisions. However, the Council will need to be mindful of the essential need to separate its decision-making (in its capacity as a member of the JVLLP) from its functions as a planning authority. This also has bearing on the appointment of nominees to the JVLLP's board and also who deals with decision-making on resourcing and reserved matters etc. through the Cabinet, to reduce the risks of challenge from bias or allegations of pre-determination or other conflicts of interest.

Risks

The principal risks in the project are as follows.

a) Other forms of legal challenge – It is always possible for third parties to make challenges through judicial review to attempt to halt progress with projects of this kind, and this risk cannot be ruled out entirely. However, the legal advice that the Council has obtained confirms the lawfulness of the proposed arrangement and the statutory powers being relied on.

b) Commercial – The project is structured as a joint venture and, as such, the Council should recognise that it will be acting as a stakeholder in the JVLLP, and taking a share of the development risk in the project. These risks would include the normal development risks, such as JVLLP or joint venture partner defaults or becomes insolvent, market collapse, delay in land assembly, planning and CPO delay (including highways, stopping up, etc.). The Council’s exposure to these types of risks will be limited to the extent of its investment in the JVLLP. Also, the decision making and business planning structure of the JVLLP enables the Council to participate in decisions at both board and corporate member level through the governance and decision-making arrangements it proposes to put in place.

Any joint venture arrangement, especially where parties establish a joint venture vehicle, involves complex and detailed legal commitments, which are intended to last the duration of the development scheme. Were one of the Parties to withdraw or alter the arrangement without agreement this would have considerable complex legal consequences that would almost certainly involve irrecoverable costs.

The exempt agenda report contains a detailed legal summary on the JVLLP relationship that contains information that is of a commercial and financially sensitive basis.

Procurement

The Council procured the project using an approach similar to the competitive dialogue procedure (as described in Regulation 30 of the Public Contracts Regulations 2015 (as amended)), which provided the opportunity for a structured approach to procurement. The Council reserved the right to deviate from the formalities of the Public Contracts Regulations 2015 (as amended) in conducting the competition due to the flexibilities permitted by the Concession Contracts Regulations 2016. The process was conducted as follows; ten bidders applied, six bidders pre-qualified, there was a further shortlisting to three bidders then the preferred bidder was selected. A confirming commitments stage will be utilised before a contract award decision is made. A standstill period will then be observed before the appointment is confirmed and the legal documentation entered into by the Council and successful bidder.

17 Human Resources implications and risks:

- 17.1 The 12 HRA Sites project will require continued involvement of officers from the Housing Service and other Council services. The 12 HRA Sites form part of the Council’s overall regeneration programme and a separate report setting out the Chief Executive’s proposed arrangements will be presented to Cabinet in January 2018.

18 Equalities implications and risks:

- 18.1 The public sector equality duty under section 149 of the Equality Act 2010 (“PSED”) requires the Council when exercising its functions to have due regard to: (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; and (ii) the need to advance

equality of opportunity between persons who share protected characteristics and those who do not, and to foster good relations between those who have protected characteristics and those who do not. 'Protected characteristics' include: gender, race and disability, sexual orientation, age, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment. The Council is committed to improving the quality of life for all, and supports wider social and economic growth through social and physical regeneration.

- 18.2 Separate Equality Impact Assessments (EIA) have been completed in relation to sheltered housing and general needs housing to assess the impacts that the 12 Sites HRA Regeneration programme will have on residents and businesses at the selected sites. These are attached to the Business Case as Appendix 8.5.
- 18.3 To inform the EIAs, resident data has been collated from Housing Services' records, which were updated during the 1-2-1 engagement meetings with residents. The Mosaic Market Segmentation tool was also used to form a socio-economic profile of the affected estates. Together, both data sets establish a demographic profile of those affected by this Regeneration programme.
- 18.4 Overall, the 12 Sites regeneration programme will have a positive impact on the residents living on these sites. As identified in this cabinet report and in the EIAs, the programme will deliver approximately 3000 new, energy efficient homes of mixed size and tenure. More than a third of these homes will be affordable to local residents. These homes will contribute to meeting Havering's current and future housing need, as defined by demographic characteristics such as age, affordability and household types. Principles such as *Secure by Design* and *Social Value* have been an integral part of procuring a PSDP and, via the JVLLP, will contribute to the Council's place-making objectives to establish cohesive and sustainable communities that support economic growth and prosperity.
- 18.5 In the short and medium term however, the regeneration programme will have adverse impacts on current residents, particularly as a result of the displacement and disruption required in order to gain vacant possession of the sites prior to demolition. In recognition of this, the Council has undertaken a series of public and 1-2-1 consultation and engagement meetings with stakeholders in order to maintain an open dialogue about the progression of the programme and its impact on the communities involved.
- 18.6 The Local Lettings Plan has been a key point of reference for the public and sets out the support measures the Council has put in place to reduce the impact of the regeneration programme on local residents. These include, but are not limited to:

Secure tenants

- Home loss and disturbance payments
- A permanent move elsewhere in the borough or assistance with out of borough moves
- The right to return to a new build property after site completion
- Up to two property refusals

Other Residents

- Reassessment of housing need for residents in temporary accommodation
- Rehousing advice for Private Tenants
- Market value + financial compensation for leaseholders and freeholders

- 18.7 Where residents request and/or officers deem it necessary, advocates and occupational health professionals have been a part of the communication and decision making process that affects individual households.
- 18.8 Consultation with stakeholders will continue to play an important role as the regeneration programme progresses.
- 18.9 The EIAs will be reviewed on an annual basis. Due to the scale and longevity of the programme, the two over-arching EIAs will be accompanied by additional Site Specific EIAs that will assess the effects of regeneration on site specific characteristics or consider the impact of any regeneration plans that deviate from the overall direction of travel.

BACKGROUND PAPERS

Appendix 1

London Borough of Havering

EXCERPT OF INVITATION TO SUBMIT FINAL TENDERS (“ISFT”)

Havering Estate Regeneration Partner Project

Table 1: Detailed Criteria and Weightings for Final Tender Evaluation

No.	Criteria	Criteria Weighting	Level 1 Sub-Criteria	Evaluation	Level 1 Sub-Criteria Weighting
1	Partnering	20%	Q.1.1 Joint Venture Leadership Management and Partnership Working	Scored 0-10	10%
			Q.1.2 Joint Venture Resourcing	Scored 0-10	10%
2	Construction Programme Delivery	10%	Q.2.1 Supply-Chain Selection, Co-ordination and Management	Scored 0-10	2.5%
			Q.2.2 Construction Project Management	Scored 0-10	2.5%
			Q.2.3 Construction Health and Safety Approach and Measures	Scored 0-10	2.5%
			Q.2.4 Minimising Construction Energy, Water and Waste	Scored 0-10	2.5%
3	Market Positioning	10%	Q.3.1 Market Positioning	Scored 0-10	10%
4	Sample Package Scheme Development Proposals	20%	Q.4.1 Development 1 Outline Master-Plan and Housing Design	Scored 0-10	5%
			Q.4.2 Development 2 Outline Master-Plan and Housing Design	Scored 0-10	5%
			Q.4.3 Development 3 Outline Master-Plan and Housing Design	Scored 0-10	5%
			Q.4.4 Sample Package Scheme Development Proposals - Stakeholder Engagement and Communication	Scored 0-10	2.5%
			Q.4.5 Sample Package Scheme Development Proposals – Construction Programme Plans	Scored 0-10	2.5%
5	Additional Sites	2.5%	Q.5.1 Additional sites	Scored 0-10	2.5%
6	Social Value	7.5%	Q.6.1 Social Value Proposal	Scored 0-10	7.5%
7	Legal & Commercial	10%	Q.7.1 Legal Documents Response	Scored 0-5	10%
8	Financial Proposals	20%	Q.8.1 Financial Model and Commentary (see Appendix 3 and Appendix 4)	Scored (see Appendix 3 and 4)	20%

Schedule

QUALITY AND FINANCIAL QUESTIONS BIDDERS ARE REQUIRED TO ANSWER AT THE FINAL TENDER SUBMISSION STAGE

1. PARTNERING

Criteria 1 – Partnering**Q.1.1 – Joint Venture Leadership Management and Partnership Working (Scored 0-10)**

Clear accountability and key personnel availability are key criteria for a successful partnership working.

Please outline your leadership and management structure including proposed JV Board Directors and the senior management team operating the JV.

The key points of contact, and roles and responsibilities for individuals proposed (including an Organogram and CVs of key personnel setting out their relevant experience) should be included as part of your response.

The Authority is seeking a JV partner that will deal with issues in a proactive and responsive manner with a single point of contact for operational delivery and accountability. Should issues arise during the joint venture please outline your lines of escalation and availability which demonstrate accountability and commitment to resolving issues.

There are no word limits to the Final Tender responses to this question.

Criteria 1 – Partnering**Q.1.2 – Joint Venture Resourcing (Scored 0-10)**

The JV staffing and resource plan should be submitted to set out the staffing and resourcing to be provided by the Partner; resource that would have to be externally sourced through the Partner's supply chain; as well as any resource that the Authority would be expected to provide towards achieving the optimal resourcing structure. This may involve both specific resources to be put in place as well as resourcing methodology and approach to secure support to meet the needs of the JV.

The resource plan for the JV should seek to demonstrate that the Partner has a proposal with robust capacity, competency and management structures to deliver the range of services and objectives as defined below whilst being balanced with efficiency and adaptability in meeting demand.

The resource plan should address the following range of services and objectives:

- design
- planning
- marketing sales & sales
- supply-chain procurement
- development and construction management function
- finance and treasury management

There are no word limits for the Final Tender responses to this question.

2. CONSTRUCTION PROGRAMME DELIVERY

Criteria 2 – Construction Programme Delivery

Q.2.1 – Supply-Chain Selection, Co-ordination and Management (Scored 0-10)

The partnership will involve delivering construction at multiple sites over the duration of the joint venture.

Please provide details of how you will appoint, manage and co-ordinate the construction supply-chain to deliver development across the sites that will demonstrate:

- Processes for effective needs assessment and planning of supply-chain requirements
- High quality standards in the contractors and suppliers appointed for site developments and across the development programme
- Efficiencies in your procurement approach to deliver initial and ongoing value for money for each site development and across the development programme
- Effective monitoring, reporting and management of supply-chain performance. Cost-control and quality assurance
- Rigorous inspection regimes, sub-contractor induction, monitoring and vetting, the supply chain's ability to deliver resilience and contingency measures.
- Processes in place to ensure supply-chain resilience and contingency measures
- Communications, logistics and management processes to be able to effectively co-ordinate the supply-chain to deliver the site programmes to timetable.

There are no word limits for the Final Tender responses to this question.

Criteria 2 - Construction Programme Delivery

Q.2.2 – Construction Project Management (Scored 0-10)

The construction phases of site development will require the Partner to provide effective construction project management. This should demonstrate day to day accountability for on-site process for scheme progress and managing project risks.

Please outline your processes and procedures that your day-to-day project manager will put in place to keep the Authority informed on a regular basis.

Should issues arise during the construction stages please outline your lines of escalation and availability which demonstrate accountability and commitment to resolving issues.

Your response provided should seek to demonstrate:

- proactive approach to managing delivery and issues arising
- manage day to day operational delivery effectively
- reporting systems and client engagement mechanisms you propose to adopt to ensure that the Authority is made aware at the earliest opportunity of relevant issues or problems affecting programme, cost or quality

There are no word limits for the Final Tender responses to this question.

Criteria 2 - Construction Programme Delivery

Q.2.3 Construction Health and Safety Approach and Measures (Scored 0-10)

Please provide details of the approach and measures you will implement to ensure effective health and safety measures are put in place for the protection of contractor staff and the public during construction.

Your response should seek to demonstrate:

- your approach to contingency advance planning to prepare for health and safety hazards, incidents and emergencies which may occur on site
- how you assess and identify for each site health and safety risks (and possible emerging risk on an on-going basis) in operating in the site and resource appropriate measures accordingly;
- Your communications plan in respect of emerging or actual health and safety incidents which enables your organisation to respond promptly to the health and safety issues; mobilise and co-ordinate contingencies measures; and to keep the Authority informed.
- Your strategy and methodology in dealing with arising incidents on site in order to ensure health and safety incidents do not impact on the overall project timescales.

There are no word limits for the Final Tender responses to this question.

Criteria 2 - Construction Programme Delivery

Q.2.4 Minimising Construction Energy, Water and Waste (Scored 0-10)

Please provide details of your approach and measures that you will implement to minimise the amount of energy, water and waste produced in delivering the programme of construction under the joint venture. Your response should describe measures in relation to performing construction services for the Authority as well as materials used during construction.

There are no word limits for the Final Tender responses to this question.

3. MARKET POSITIONING

Criteria 3 – Market Positioning

Q.3.1 –Market Positioning (Scored 0-10)

Please provide your approach to Sales & Marketing across the programme of sites. Your response should include details of:

- Your approach and methodology for assessing demand for types of homes in each area
- Examples of specific design approaches and place-making interventions you consider appropriate for inclusion in these development sites
- Your analysis of growth / value uplift opportunities across the 12 sites
- How you will co-ordinate with other advisors and intermediaries to support and facilitate the transfer of assets
- How you will maximise value for the sale of developed assets
- The marketing you propose to carry out for the development to secure potential purchasers
- The resourcing you propose to deploy to deliver that plan
- Your projected rate of sale and reasons supporting those projections
- Your strategy for maximising value from sales and reasons supporting the effectiveness of that approach

There are no word limits for the Final Tender responses to this question.

4. SAMPLE PACKAGE SCHEME DEVELOPMENT PROPOSALS

Criteria 4 – Sample Package Scheme Development Proposals

Q.4.1 Development 1 Outline Master-Plan and Housing Design (Scored 0-10)

Please provide a design and planning submission for Development 1 (comprising of the Waterloo Estate site and the Queen Street site) to include:

1. Identification and illustration of key site constraints and opportunities impacting on the location, form, type and quantum of development
2. Diagrams, plans and images to illustrate:
 - Overall approach to site layout
 - Access and connectivity
 - Parking
 - Landscape / Public realm
 - Built form
 - Massing and height
 - Key views
 - Precedent images for elevational treatments (representative of your approach to this site)
3. Commentary on residential mix, specification, target market
4. Proposals to amend/modify/improve the baseline position (set out in the design brief) including quantum and tenure mix
5. Planning opportunities and constraints
6. Summary accommodation schedule with tenure, building types, gross and net residential areas
7. Plan to increase local biodiversity with planting and wildlife areas in developing the sites.

NB Please refer to benchmark specifications supplied with this ISFT

There are no word limits for the Final Tender responses to this question.

Criteria 4 – Sample Package Scheme Development Proposals**Q.4.2 Development 2 Outline Master-Plan and Housing Design (Scored 0-10)**

Please provide a design and planning submission for Development 2 (comprising of the Napier House and New Plymouth House site) to include:

1. Identification and illustration of key site constraints and opportunities impacting on the location, form, type and quantum of development
2. Diagrams, plans and images to illustrate:
 - Overall approach to site layout
 - Access and connectivity
 - Parking
 - Landscape / Public realm
 - Built form
 - Massing and height
 - Key views
 - Precedent images for elevational treatments (representative of your approach to this site)
3. Commentary on residential mix, specification, target market
4. Proposals to amend/modify/improve the baseline position (set out in the design brief) including quantum and tenure mix
5. Planning opportunities and constraints
6. Summary accommodation schedule with tenure, building types, gross and net residential areas
7. Plan to increase local biodiversity with planting and wildlife areas in developing the site.

NB Please refer to benchmark specifications supplied with this ISFT

There are no word limits for the Final Tender responses to this question.

Criteria 4 – Sample Package Scheme Development Proposals**Q.4.3 Development 3 Outline Master-Plan and Housing Design (Scored 0-10)**

Please provide a design and planning submission for Development 3 (comprising of the Serena, Solar and Sunrise site) to include:

1. Identification and illustration of key site constraints and opportunities impacting on the location, form, type and quantum of development
2. Diagrams, plans and images to illustrate:
 - Overall approach to site layout
 - Access and connectivity
 - Parking
 - Landscape / Public realm
 - Built form
 - Massing and height
 - Key views
 - Precedent images for elevational treatments (representative of your approach to this site)
3. Commentary on residential mix, specification, target market

4. Proposals to amend/modify/improve the baseline position (set out in the design brief) including quantum and tenure mix
5. Planning opportunities and constraints
6. Summary accommodation schedule with tenure, building types, gross and net residential areas
7. Plan to increase local biodiversity with planting and wildlife areas in developing the site.

Please note that the entirety of this site will be retirement accommodation.

NB Please refer to benchmark specifications supplied with this ISFT

There are no word limits for the Final Tender responses to this question.

Criteria 4 – Sample Package Scheme Development Proposals

Q.4.4 Stakeholder Engagement and Communication (Scored 0-10)

Please provide details of the stakeholder engagement and consultation and communications plan you intend to put in place in relation to developing the Sample Package Scheme Development Proposals. Your response should provide a timetable and resourcing plan to carry out the consultation and programme of communications.

The proposals should set out:

- an effective plan to identify relevant Stakeholders in relation to the 3 Developments of the Sample Package Scheme and schedule accessible consultation opportunities for them to participate in
- the information that the consultation process would seek to identify relevant to the 3 Developments of the Sample Package Scheme and the reasons it is important for the successful delivery of the scheme
- how the consultation information will be collated, provided and presented to the Authority
- how you would work with the authority to address issues anticipated to result from the consultation exercise
- the communications programmes and events that would be deployed during and on completion of each and all of the 3 Developments of the Sample Package Scheme development to promote projects to Stakeholders and the community.

There are no word limits for the Final Tender responses to this question.

Criteria 4 – Sample Package Scheme Development Proposals

Q.4.5 Programme (Scored 0-10)

Please provide a high-level programme for the delivery of the Sample Package Scheme Development Proposals.

The Programme should:

- Show all key work stages for each of the 3 Developments
- Show all key milestones for each of the 3 Developments

The Programme should be supported by a commentary explaining how those key milestones are properly resourced and deliverable to provide confidence that the Sample Package Scheme Development Proposals will be delivered on time. The commentary should also provide details of contingency and business continuity measures that will be put in place to ensure the resilience of the proposed programme.

There are no word limits for the Final Tender responses to this question.

5. ADDITIONAL SITES

Criteria 5 – Sample Package Scheme Development Proposals

Q.5.1 Additional Sites Strategy (Scored 0-10)

The joint venture commencement programme will be to deliver the development across the 12 initial sites. However, the joint venture will also need to have a strategy to seek and realise housing led development commercial opportunities beyond the development of these 12 initial sites.

Please provide details of your overview approach, business plan and strategy in relation to future opportunities within the Borough of Havering over the duration of the arrangements beyond the development of these 12 initial sites. This may include (but is not limited to) strategic review and financial appraisals of other existing Authority sites for commercial development as well as further potential land assembly and acquisition opportunities to be jointly invested in and realised through the Joint Venture.

There are no word limits for the Final Tender responses to this question.

6. SOCIAL VALUE

Criteria 6 – Social Value

Q.6.1 Social Value Proposal (Scored 0-10)

The Partner will be operating within the Borough over the long term and will be expected to apply its skills and ability to contribute towards the strategic social and economic development and regeneration of the area.

The Authority is committed to delivery of social value linked to the development and regeneration of the sites. The Authority is looking to the Partner to drive benefits in terms of:

- Providing apprenticeships and other skills development, work experience and opportunity access programmes to be provided in the Borough to secure skills to support the delivery of development programme and leave a legacy of workforce investment. The details of commitments, the quality and duration of the training programmes and support proposed should be included.
- Offering curriculum support to schools with contractors sharing knowledge and expertise about their discipline.
- Creating supply chain opportunities for SMEs and social enterprises.
- Supporting initiatives like targeting hard to reach groups and offering training opportunities.
- Investing in delivering facilities such as libraries and leisure facilities to communities and making them available for community use.

The deliverability of your proposal may be illustrated by relevant examples of social value in past projects. The Authority will be assessing the quality of the proposal and also the number of clear formal commitments, inputs and outputs put forward.

There are no word limits for the Final Tender responses to this question.

7. LEGAL AND COMMERCIAL

Criteria 7 – Legal & Commercial

Q.7.1 Contractual Documents Response

Bidders are required to submit a mark-up (with supporting commentary and reasoning to explain changes, proposals and commitments) to the contractual documents consisting of:

- the Members Agreement
- the Development Agreement
- the Development Management Agreement
- the Build Licence (or alternatively a building lease proposed by the Bidder which should aim to reflect the risk transfer of the Build Licence)

The response should also incorporate how the Bidder will address the issue covering the *Phasing or viable and less viable Sites* clarification (as set out in the Authority's clarification issued to Bidders on 2nd November) and this is to be evaluated as part of the overall holistic assessment of the Contractual Documents response. The relevant clarification is repeated below for reference.

The final mark-up submitted as part of the Final Tender should reflect the positions discussed with the Authority up to the conclusion of the dialogue stage.

Authority's clarification issued to bidders 2nd November:

Phasing of viable and less viable Sites

Bidders are aware that the Regeneration of all 12 Sites is dependent on Sites being "bundled" so that each Phase of Sites delivers a positive residual land value even if individual Sites would not do so, looked at in isolation. The three initial developments have been chosen for that reason and it will be necessary that later Phases will be bundled in the same way so that all 12 Sites can be delivered viably.

However, even if Sites are bundled in viable Phases, this does not of itself guarantee that all the Sites in a Phase will be completed. The worst case scenario is that the most viable Site(s) within a Phase are completed; there is a downturn in the market (or for any other reason the JV comes to an end) and the less viable Sites are not built. The Council, therefore, needs to be sure that all the Sites within a Phase are both started and completed in a timely manner.

Bidders should describe how they will address this issue covering the following areas in respect of phases of sites:

- In respect of the Sample Package Scheme involving the initial 4 Sites (over 3 Developments) what commitment can be given to ensuring a start of construction on each Site within a specified time period? The Council's requirement is that there will be no more than 6 months between the start on Site on the first and last Site within the initial Phase of Sites across the three initial Developments and bidder's proposals must comply with or improve upon this requirement.
- What commitments can be given to ensuring that all Sites within the Sample Package Scheme of the initial three Developments are completed, once started. This might include restrictions on how many Units on the viable Sites can be sold before practical completion of the less viable Sites
- What similar commitments can be given in relation to ensuring a start of construction of each Site within a defined time period for each future Phase "bundle" of Sites for the remaining 8 Sites?
- What sanctions the JV would suffer if the commitments referred to above are not met both in respect of the Sample Package Scheme and also in relation to each future Phase "bundles" of Sites for the remaining 8 Sites.
- What amendments to the legal documentation are proposed to incorporate the above to reflect commitments in respect of the Sample Package Scheme and also in relation to each future Phase "bundle" of Sites for the remaining 8 Sites.