

Item No.	Classification: Open	Date: 14th July 2014	Meeting Name: Overview and Scrutiny Committee
Report title:		Update on Review of Major Works at Draper House report	
Ward(s) or groups affected:		All	
From:		David Markham, Head of Major Works	

RECOMMENDATION

1. That Overview and Scrutiny Committee note the actions taken following the report to cabinet on 10th December 2014.

BACKGROUND INFORMATION

2. Housing, Environment, Transport and Community Safety Sub-Committee carried out a review into the delivery of major works at Draper House. The sub-committee's report was presented to cabinet on 10th December 2013 setting out nine recommendations.
3. This report updates the Overview and Scrutiny Committee on progress.
4. OSC is asked to note that separately the council has commissioned an independent investigation into the delivery of major works at Draper House. The terms of reference for the investigation covers three broad areas:
 - Communications
 - Building Works
 - Governance and Transition
5. The investigation is being carried out by Claer Lloyd-Jones and the council expects to receive the final report during the summer 2014. There is clearly some overlap with the OSC review and the independent investigation and Ms Lloyd-Jones has considered the OSC reports and the officer response to the recommendations in carrying out her investigation.

KEY ISSUES FOR CONSIDERATION

6. The nine recommendations are set out below with an update from officers.

a. Termination at will clauses:

All major works contracts issued by Southwark council should contain termination at will clauses.

Response:

The Major Works team has included a termination at will clause in the new contractors' framework which is currently being procured. The new contractors'

framework will come into effect in early 2015.

With regard to other contracts, there is provision in the council's standard template documents to include such a termination provision, but this is considered on a case by case basis, as the effect of including this clause (particularly for contracts which require investment by the contractor) is that contract costs can increase.

b. Default notices: Default notices should be considered a primary tool for escalating poor performance at the earliest opportunity. Project managers should be encouraged to use them as a matter of course as soon as substandard performance becomes apparent.

Response:

Since the OSC review, there has been an increased use of default notices across the partnering contracts. Seven have been served on the major works partnering contractors in the past twelve months. These have been issued immediately where it has been identified that performance does not meet expectations and these have been supplemented with partner contractor meetings with the Head of Major Works and Investment Manager. Default notices have been adopted as a new Key Performance Indicator (KPI) in the current contracts.

In addition, since the OSC review, a formal core group has been put into place, chaired by the cabinet member for housing. This is a regular contract review meeting attended by all three major works contractors, officers and resident representatives. It is a formal challenge session on the performance of each contract area which is minuted.

With the reduction of the partnering contractors from 5 to 3 the partnership has grown in strength. There have been a range of community initiatives by each partner contractor for local residents, for example in the recruitment and training for local residents. The current partners work well together as evidenced by the joint supply chain set up to reduce costs. There is a willingness and desire to work with the council to deliver the programme in true partnership with programmes brought forward in the last two years as additional resources become available and reductions in site setup costs as a result..

An intensive training programme is currently being carried out by the council's internal auditors, Baker Tilly, for all members of staff in the major works and repairs and compliance divisions. This training is intended to improve the quality of contract management overall and understanding of the contractual tools available to hold contractors to account.

c. Payment of sub-contractors: In all future contracts the council should stipulate an acceptable period within which the primary contractor must pay sub-contractors for completed work.

Response:

This is now always monitored as a standard item at contract meetings with the remaining contractors

This was identified as a particular issue with the Breyer contract. Evidence was presented that demonstrated that sub-contractors were being paid late in the Breyer contract area. It is not however an issue with the three remaining contractors, A & E Elkins, Keepmoat and Saltash.

d. Breyer:

The sub-committee is aware that, due to EU Procurement law, the council must consider all future bids from Breyer Group Plc for work in Southwark. However, the sub-committee recommends that the conclusions of this scrutiny report be kept at the forefront of officers' minds in considering these future bids. We hope that the implications of this recommendation are clear.

Response:

The council is subject to the EU Procurement Regulations, and therefore is required to consider bids from any provider who satisfies the council's selection requirements, unless there are specific grounds to exclude under Regulation 23 (for example insolvency/criminal convictions). The officers and panel members who have been appointed to oversee the new Contractors' framework currently in procurement will ensure that the selection and award criteria are appropriate to the contract in question so that only suppliers who have the economic/financial standing and the technical/professional ability are invited to tender, and the evaluation methodology is set so that only providers who can satisfy the council's requirements for the contract are selected. It should be noted that neither Breyer nor Wates submitted an application for the new contractor framework. A Project Board is in place with resident representatives to oversee the whole procurement process for this framework.

e. Complaints logs:

During all major works projects, detailed complaints logs are to be kept and reviewed on a regular basis to prioritize issues which need to be resolved for the benefit of residents.

Response:

All projects now have in place a complaints log which is kept on site and is reviewed at every monthly site meeting. The complaints log is also updated to include issues raised relating to the scheme through emails and other forms of communication, not just those recorded on site. The number of complaints is decreasing and these are being dealt with quickly and efficiently and resident satisfaction is rising. Since January 2014 there have been 34 complaints logged at Draper House. Every complaint has been recorded and discussed at the monthly contract meetings and all have been responded to. It is important to note however that complaints may not be resolved to some complainants' satisfaction. Regrettably, there continues to be a small number of residents who remain deeply dissatisfied with the programme of works at Draper House.

The contractor, AE Elkins, has increased their senior presence at the site as the contract draws to a close and each resident, floor by floor, are being asked to sign off the individual works to their home so that we can address issues as and when they arise.

f. **Leaseholder charges:** No leaseholder in Draper House should be forced to pay for more than the value of the original notices on which they were consulted. It is understood that this is already the intention of council officers, but the sub-committee felt it was important to underline this approach in our recommendations.

Response:

No Leaseholders in Draper House will be charged more than the value of the original notices on which they were consulted unless new works are added to the contract.

g. **Sharing Information:** Southwark procurement team should investigate setting up a formal network with other London Councils to share information regarding the performance of construction contractors.

Response:

The Southwark procurement team are already members of a number of existing procurement networks, including South East London Procurement Group and London Heads of Procurement function, where matters like this can be raised.

The council's approved list function has a facility for users to record information regarding the performance of construction contractors. Monitoring the performance of contractors on the approved list should be conducted in accordance with approved list procedures, including the completion of quarterly control forms for all approved list contracts. Performance information can then be supplied to other officers who intend to use the Approved List of Works Contractors and Consultants.

However, in larger projects (over EU threshold of £ 4.3m) a quality evaluation must be undertaken, which requires each applicant (potential contractor) to be treated equally, and scored in a consistent, non discriminatory and fair manner. At Pre-Qualification Questionnaire (PQQ) stage this must be done only on the information contained in the PQQ returns (with the exception of objective information which has been obtained, e.g. an external credit report). References can be requested at this stage however any other information received by any means including personal knowledge or experience of the applicant cannot be taken into account. The criteria that are used at PQQ stage have been reviewed and tightened to ensure that the successful short listed contractors are able to deliver a high quality service to residents.

The best way to secure good performance from a contractor is to have effective contract management and monitoring arrangements in place. Closer management of supplier performance against contract specifications enable comparison across contracts and business units. This helps identify efficient and inefficient contracts and suppliers, and helps achieve best value by ensuring best quality services are delivered while maintaining or reducing costs. Project managers can then deal with poorly performing contractors using the tools within the contract, which will target interventions to those contracts and or suppliers where improvement is necessary. Documentary evidence of performance can be used to resolve any disputes and agree actions, and ensure that any performance bond and/or parent company guarantees are executed to protect the council from risk.

Guidance to officers also includes information about liquidated damages which can be used in contracts to establish in advance a set amount of loss per week which can be claimed by the council for delay in completing a project. Liquidated damages will be included in the new framework contracts being set up.

h. Appointing project management teams:

Officers should review how the original project management team for Draper House was appointed. Project management teams should not be appointed to complex projects unless senior managers are absolutely certain that the individuals have the training, qualifications and skills required to deal with the project. Measures should be put in place by senior officers to ensure this is the case in future.

Response:

For all schemes which prove very complicated then additional project management resources will be put in to the scheme. In Major Works there is training for the whole project management team as well as individual assessments done on an ongoing basis. This allocation of staff and review of training requirements is overseen by the Head of Major Works. Specific and bespoke additional training has also been provided for contract managers, including the contract management training referred to earlier.

Following the mutual termination of the Breyer contract at Draper House and the appointment of the new contractor, AE Elkins, the Head of Major Works changed the day to day project team. This included appointing a dedicated on-site project manager and clerk of works.

This approach has been replicated and adapted at other specific projects where the size and nature of the work needed a greater presence than the normal project management team arrangements, for example at Four Squares Estate.

In addition, there has been a recent restructure in the Major Works division to further strengthen the contract management arrangements. An additional Design and Delivery Manager has been appointed to provide extra management and support for more complicated projects. There has also been a change in some patches and a reallocation of work between the project managers.

i. Communications with residents:

The scrutiny sub-committee did hear evidence from officers that new procedures for ensuring residents are communicated with during major works have been put in place. These procedures should be strictly followed and failure to do so should be treated as a serious matter by senior managers.

Response:

For all new schemes within the Warm Dry Safe programme, a process has been put in place that will ensure residents are kept up to date during the project. The 'Putting Residents First' consultation process has generally proved very successful and popular across the WDS programme although it is constantly reviewed and refined. Since the OSC review, additional leaseholder consultation forms part of this process.

Residents receive the names and contact details of the Project Team who will be delivering the works to their homes well in advance of any works being carried out. This process has also been extended to those homes being brought forward from future years. This information is also available on a specific Major Works section on the council's website.

The communications for Draper House residents include:

- Public meeting and drop in sessions at stages during the project.
- Established Residents Project Teams (RPT).
- Monthly meetings with RPTs which review progress on site, expenditure and quality issues. At Draper this has been increased to twice monthly. The RPT is chaired by the full time Southwark project manager. An Issues Log is also kept and reviewed and following initial feedback from the independent investigator formal minutes are also now provided.
- Monthly newsletters and Coffee sessions. As the contract nears completion AE Elkins have increased the newsletter to twice monthly.
- Weekly updates on notice board in reception area.
- Pre handover walk around with the RPT and local councillors.
- Resident's satisfaction surveys including specific feedback on any areas of dissatisfaction. For Draper in order to maximize the number of residents replying to the satisfaction surveys, this will be done by a door to door knocking exercise, including in the evening.
- AE Elkins are carrying out their own satisfaction survey at sign off of individual properties.
- An independent Residents Advisor has been appointed to work with the council and the Draper TRA and residents to help rebuild trust and confidence.
- An information sheet for residents has been produced which lists points of contact for Southwark staff and AE Elkins' staff. It sets out responsibility for the contract; who to contact to resolve issues, how the progress and quality of work is monitored; information about the residents project team and what will happen at the completion of works. This information sheet is displayed on the notice board

The overarching desire for all residents living at Draper House is that, after years of uncertainty, the major works to their homes are high quality and are completed quickly. Every effort is being made to complete the full programme of works by the end of July 2014 and in so doing help to restore the trust and confidence of the residents living in the block.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Report to Cabinet 19 th December 2013	160 Tooley Street	Paula Thornton 020 7525 4395
Report into Major Works at Draper House (Housing, Environment, Transport and Community Safety Scrutiny Sub-Committee) 16 th July 2013	160 Tooley St SE1 2QH	Paula Thornton 020 7525 4395

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	David Markham, Head of Major Works	
Report Author	Ferenc Morath, Investment Manager, Major Works	
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Dated	9 July 2014	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
List other officers here	Yes	
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team/Community Council/Scrutiny Team	n/a	