

Item No.	Classification: Open	Date: 13 December 2018	Meeting Name: Strategic Director of Place and Wellbeing.
Report title:		Gateway 2 - Contract Award Approval Southwark Regeneration in Partnership Programme Lot A4	
Ward(s) or groups affected:		South Bermondsey	
From:		Director of Regeneration	

RECOMMENDATION(S)

That the Strategic Director of Place and Wellbeing, in consultation with the Cabinet Member for Social Regeneration, Great Estates and New Council Homes:

1. Approve the award of Lot A4 from the Southwark Regeneration in Partnership Programme (SRPP), land at Cherry Garden School, Macks Road SE16, subject to obtaining a Section 77 Consent, to Higgins Homes Plc to deliver 56 New Homes of which 18 will be council homes and a residual land offer to the council of £1,200,000 with a development period of two years commencing from February 2019 and completing in December 2020.
2. Note that the award is subject to approval being given for the disposal of the council's land at Cherry Garden School, Macks Road SE16 on the terms of the development agreement to be entered into with Higgins Homes Plc pursuant to the contract being awarded.
3. Note that the award is based on the developer's overage payment to the council at 50% of sales above the developer's projected total sales of the private units at the final bid submission calculated after deducting the projected sales costs and indexed build costs from the additional sales value (see paragraph 83).
4. Note that the council will receive a total benefit of £6,726,000 consisting of 18 social rented units, council's preparation costs of £126,196 and a land offer of £1,200,000 which is approximately £1,726,000 greater than if the land was sold on the open market with an estimated value of £5,000,000.

BACKGROUND INFORMATION

5. Cabinet agreed on the 27 January 2015 to the creation of the Southwark Regeneration in Partnership Programme (SRPP). This programme will now be consolidated into the council's New Homes Programme. The aim was to identify a number of council owned sites of varying size and development potential, which could be packaged into individual lots presenting viable opportunities for development and regeneration. These sites could be developed for a range of mixed use schemes, including housing, which would maximise the utility and value of these assets by leveraging the investment and expertise of established developers through a joint partnership.
6. In March 2016 the council ran a tender for Lot A and Lot B of the SRPP using the GLA Framework. The Gateway 2 approved by Cabinet in September 2016

recommended a developer for Lot B it also reported that no development partner had been identified for Lot A. This was due to developers believing that the sites needed further risk reduction, perceived market risks related to Brexit and an unwillingness to bid for lots containing larger sites.

7. Following further viability assessment and market intelligence, Lot A was divided into 6 sub lots (A1, A2, A3, A4 A5 and A6 as shown in Table 1) and on 21 March 2017, Cabinet approved the procurement strategy to secure developers for a repackaged Lot A through the OJEU Competitive Procedure with Negotiation Route with an estimated total Gross Development Value of £278,300,000.

8. Sites in Lot A

Lot A	Site Name
Lot A1	Braganza Workshops, 42 Braganza Street, SE17 Former council offices & retail premises, Manor Place/Stopford Road, SE17
Lot A2	Former Albion Civic Centre, Albion Street, SE16 Land at Albion Primary School, Albion Street SE16
Lot A3	345 Southwark Park Road, SE16
Lot A4	Land at Cherry Gardens School, Macks Road SE16
Lot A5	Beormund School site at Long Lane (95 Units) and New Beormund School to be developed at the Former Bellenden School site on Reedham Street
Lot A6	South Dock Marina, Boatyard, Plough Way SE16 (201 units). This lot was later removed from this procurement programme and will now be considered in the next programme through an alternative procurement or development route.

9. The Gateway 1 also included approval for the delegation of the award decision for lots A1 – A4 inclusive to the Chief Executive in consultation with the Cabinet Member for Regeneration and New Homes. However the Gateway 2 now comes under the remit of the Strategic Director of Place and Wellbeing following the creation of the new Place and Wellbeing Department and subsequent to the 3 May 2018 council elections, the cabinet portfolio holder is the Cabinet Member for Social Regeneration, Great Estates and New Council Homes.
10. This report deals with the award of the Cherry Gardens School Site at Macks Road SE16 which is Lot A4 of the Southwark Regeneration Partnership Programme Lot A.

Procurement project plan (Key Decision)

Activity	Completed by/Complete by:
PIN Notice Published	07/10/2016
Briefed relevant Cabinet Member (over £100k)	27 June 2016
Approval of Gateway 1: Procurement Strategy Report	21/03/2017
OJEU notice issued	31/03/2017
Bidders Day held for interested bidders	15/11/2017
Forward Plan for Gateway 2 Decision	07/06/2018
Follow Up individual briefing sessions held	16 -18/11/2017

Activity	Completed by/Complete by:
Deadline for SQ responses	18/09/2017
Evaluation completed	01/11/2017
Issue Initial Invitation to Tender	17/11/2017
Closing date for return of tenders	02/02/2018
Evaluation of Tenderers	22-26 February 2018
Briefed relevant Cabinet member (over £100k)	25/06/2018
Negotiation Session 1 held	5 & 6 July 2018
Issue Final Invitation To Tender	10/09/2018
Closing date for return of Final Invitation to Tender	08/10/2018
Evaluation of Tenderers	15 -17/10/2018
Clarifications completed	24/10/2018
Completion of evaluation of tenders	24/10/2018
Complete Gateway 2 draft	08/11/2018
DCRB Review Gateway 2	14/11/2018
CCRB Review Gateway 2	13/12/2018
Notification of forthcoming decision – Five clear working days	21/12/2018
Approval of Gateway 2: Contract Award Report	09/01/2019
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	18/01/2019
Debrief Notice and Standstill Period (if applicable)	21/01/2019
Contract award	22/02/2019
Add to Contract Register	23/02/2019
Contract start	23/02/2019
Publication of award notice in Official Journal of European (OJEU)	23/02/2019
Publication of award notice on Contracts Finder	23/02//2019
Contract completion date	08/12/2020

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

11. This report relates to the land at Cherry Gardens Site SE16 (Lot A4), which has an estimated total Gross Development Value of £20,815,815 and will deliver:
 - 56 new homes of which 36.2% will be council owned and an additional 14.7% will be intermediate based on habitable rooms (Table 2 breaks this down by tenure and bed size and notes that the split by units equates to 32.2% council

owned and 16.1% intermediate units); intermediate units consist of 80% of market rent, London Living Rent and Shared Ownership.

- a land receipt of £1,200,000
- a potential for overage payment at 50.1% of sales above the agreed projected sales at bid stage, less projected sales costs and indexed build costs; No overage is payable if the expected sales receipt at bid stage is not realised.
- The council's preparatory cost of £126,196 will be paid by the developer as soon as the building lease is signed to commence the development; and
- Fourteen apprentices. All apprentices will be on a recognised course and work to an apprenticeship framework.

12. In addition to the above, the scheme will also deliver private sale homes which will be marketed to Southwark residents in the first instance and this scheme will benefit from plots which fall into the government Help To Buy Scheme which will assist the sales rate.

Table 2-Lot A4 Accommodation Schedule-Cherry Gardens Land

	Council Retained units	Intermediate	Private Developer's units	Total
1 Bedroom	4	5	11	20
2 Bedroom	7	2	14	23
3 Bedroom	5	2	4	11
4 Bedroom	2	0	0	2
Total Units	18	9	29	56
Percent (%) by habitable units	32.2	16.1	51.7	100
Total Habitable Rooms	59	24	80	163
Percent (%) by habitable room	36.2	14.7	49.1	100

Key/Non Key decisions

13. This report deals with a key decision.

Policy implications

14. The programme has been shaped by the promises and commitments made in the Council Plan, such as building more quality affordable homes of every kind and revitalising our neighbourhoods making them places in which we can all be proud to live and work.
15. The development plan for the borough consists of the Mayor's London Plan, the Core Strategy 2011, the Saved Southwark Plan policies, the Aylesbury Area Action Plan, the Canada Water Area Action Plan, the Peckham and Nunhead Area Action Plan and a revised Canada Water Area Action Plan.
16. The council is now reviewing the Southwark Plan and Core Strategy to prepare a local plan called the new Southwark Plan. This new plan will set out our regeneration strategy from 2017 to 2033 and will also be used to make decisions on planning applications. The new Southwark Plan will go to Cabinet in January 2019 and will:
 - Set policies to support the provision of new homes including 11,000 new council homes.

- Protect our existing Schools and community facilities in the borough and provide more where this needed.
- Protect local businesses and attract more businesses into the borough to increase job opportunities.
- Support our high streets and increase the range of shops to increase their vitality.
- Introduce policies to improve places by enhancing local distinctiveness and protecting our heritage assets.
- Set policies to provide greener infrastructure and to promote opportunities for healthy activities.
- Provide visions and policies for the many different areas within Southwark.

Tender process

17. The procurement route that was recommended and approved in the Gateway 1 report was a competitive procedure with negotiation which was used in this procurement as it allowed the council:
 - to reserve the right to evaluate and award a contract based on initial tenders (as if it was a restricted procedure); or
 - to have some negotiations to clarify aspects of the initial tender with a limited number of bidders.
 - flexibility to select a bidder (based on its written tender) at an early stage or shortlist a number of bidders if it wanted to negotiate any element of their bids.
 - to undertake some negotiations with the bidders to clarify certain aspects of their initial bid and/or address elements which fall short of the council's objectives.
18. The council published one OJEU notice for all Lots, including this tender, against which bidders were asked to register their interest in the tender through the council's e-procurement portal, Procontract 3. Following this each bidder completed a Standard Selection Questionnaire (SQ) and confirmed which lots they would like to bid for. In order to attain the best outcome from this tender and explore different approaches with tenderers, the council confirmed that tenderers could bid for one or more lot. The SQ is a standard document which tenderers were expected to complete only once irrespective of the number of sites they tendered for. However for each lot there was a requirement to respond to some additional site specific questions in the final section of the document.
19. The SQ was evaluated by the council based on agreed criteria and the council shortlisted bidders against each lot as detailed in paragraph 58-59 of the Gateway 1 report that was approved in March 2017. Bidders were notified as to whether or not they had been successful and an Invitation to Tender (ITT) was issued to each successful bidder for their relevant lot/s.
20. Eleven bidders completed the Selection Questionnaire for Lot A4 and the top five were shortlisted to submit an Invitation to Tender in line with the tender documents.

Bidders	Score	Rank
Bidder 1	81	1
Bidder 2	74	2
Bidder 3	74	2
Higgins	72	4
Bidder 5	71	5

Bidder 6	70	6
Bidder 7	59	7
Bidder 8	51	8
Bidder 9	43	9
Bidder 10	40	10
Bidder 11	37	11

21. The Initial Tender was issued to all five tenderers on 17 November 2017 with the deadline for return on the 2 February 2018.
22. Although all five shortlisted bidders confirmed their intention to submit a tender at the start of the tender process, two of the potential bidders, decided to pull out of the tender process for the following reasons:
 - concerns about the details that were required by the council for Lot A1 and Lot A4 and did not feel confident they would have been able to provide detailed responses for both Lots without requiring a four to six week extension. Although the council provided an additional three week extension to the Initial ITT were still unable to submit a tender as they were unable to provide adequate resources to tender for more than one lot.
 - concerns about the viability of the scheme given the designs and associated construction costs and the level of affordable housing, as at the time of tender there was no confirmed subsidy being provided for the social units. Although there is a possibility of grant/ subsidy being available at a later date the council did not include consideration of any additional subsidy/grant at the time of tender as that was an unknown and uncertain quantity.
 - considered that the level of information the council was seeking at the ITT stage was too onerous. However the council considered the information being required was appropriate to identify a developer for this scheme who would be able and willing to deliver a value for money scheme for the council.
23. At the initial ITT stage all three bidders were required to make a full tender submission (including a mark-up of the legal agreements).
24. Once the initial ITT had been evaluated, Higgins and another were shortlisted to go to the next stage. The other bidder was unsuccessful as they attained the lowest score out of the three bidders and the ITT stipulated that only the two highest scoring bidders would be progressed to the final ITT.
25. Higgins and the other were then invited to participate in the next stage of the process by attending a number of negotiation sessions and were asked to sign and return a meeting protocol prior to the first meeting in order to put in place some guidance and guidelines for the format of the negotiation sessions.
26. During the negotiation sessions a number of key areas were discussed:
 - Design Issues
 - Construction and buildability
 - Quality control and management of the supply chain
 - The council's sliding scale for final ITT to determine the point where the council could achieve maximum number of social/affordable units against a break even position for capital receipts

27. Once the negotiation sessions were finalised the two bidders on the 10 September were invited to submit a final ITT by 8 October 2018 which incorporated:
- all the aspects discussed/raised at the negotiation meetings
 - the Final Mark Up of the Development Agreement and associated narrative in line with the feedback from the council and Trowers and Hamlin during the negotiation sessions;
 - a few additional new questions; and
 - an updated Viability Template based on the provision of 50% affordable habitable rooms as opposed to the 40.4% habitable rooms included in the initial ITT.
28. Although both tenderers submitted a Final ITT on 8 October, which was evaluated by the council, one bidder notified the council of its decision to withdraw from the process on the 24 October 2018 for the following reasons:
- Current uncertainty regarding the impact on the housing market particularly in London following Brexit
 - Sales prices for this Lot in their calculations falling outside the Help to Buy threshold.

Tender evaluation

29. As detailed in the Gateway 1 and tender documents the tender was evaluated against 30% quality and 70% price.
30. The price submission was evaluated by:
- a. Housing Regeneration Manager
 - b. Independent Property Consultant
 - c. Divisional Accountant
31. The quality submission was evaluated by:
- a. Housing Regeneration Manager
 - b. Senior Planner and Planning Advisor
 - c. Project Manager- Housing and Enabling
 - d. Head of Regeneration-Capital Works and Development
32. Both panels were advised by our external solicitors, Trowers and Hamlins, an in House Lawyer and the Interim Head of Procurement.

Initial ITT

Quality Scoring (30%)

33. The maximum weighted score for the quality evaluation was 30%.
34. The council asked a number of qualitative questions covering a range of areas specific to this project. The Tenderers' response to each question was scored from 0 to 5 and evaluated in line with its associated weighting, as detailed in Table 1.
35. A number of questions within each section also included a threshold for minimum scores, which if tenderers failed to meet the council reserved the right to disqualify the bidder from the process.

36. The Evaluation Panel conducted a 'consensus scoring' processes to moderate the scores awarded during the evaluation process. The moderation has given regard to any variance in the scores between the evaluators, together with the subsequent assessment following any clarification obtained from the Tenderer.

37. The quality scores for the three tenderers at the initial ITT are detailed in Table 1.

Table 1

Area	Out of %	Higgins		Bidder 2		Bidder 3	
		Score	%	Score	%	Score	%
Programme	12	3	7.20	3	7.20	3	7.20
Design and Quality	48	21	32.80	19	28.40	16	26.00
Risk, Project Methodology and Resources	17	13	10.80	14	12.40	10	9.00
Working in Partnership	12	10	7.80	9	7.20	9	7.20
Social Value	11	15	8.20	12	6.60	13	7.00
Total Unweighted (out of 100%)	100	62	66.80	57	61.80	51	56.40
Final Score - Weighted (out of 30%)	30		20.04		18.54		16.92

Financial Evaluation (70%)

38. The financial evaluation was scored out of 70% and was broken down against the following criteria:

- 5% Confirmation that the developer understands the development and design requirements of the council
- Pass/Fail on their approach to gaining funding
- 50% capital receipts as detailed in the Viability Template
- 5% confidence in Viability Template (minimum score 3)
- 5% overage (minimum score 3)
- 5% Confidence in the sales value of the private units and costing assumptions (minimum score 3)

39. For the Initial ITT tenderers were asked to provide a bid based against the maximum capital receipt that they could provide when delivering 40.4% affordable habitable rooms according to the ITT.

40. The 50% weighting on the tenderers capital receipts as detailed in the Viability Template was evaluated in the following way with:

- 35% awarded to the Tenderer offering the highest capital receipt with lower offers receiving proportionately fewer marks; and
- 15% allocated by assessing the average level of financial return from all Tenderers with marks awarded by reference to the degree by which the evaluated proposal deviates from the average.

41. Tenderers were also required to provide overage offer to the council which will be based on a minimum of 20% of the additional private sales over their proposed gross development value less 5% of cost of sales.

42. Tenderers scores against each of the financial criteria for their initial tender is detailed in the following table:

Questions	Out of %	Higgins %	Bidder 2 %	Bidder 3 %
Employers Requirements	2	1.60	1.20	1.20
Funding	3	1.80	1.80	1.80
Land Offer	50	48.20	43.80	41.70
Confidence in assumptions	5	3.00	4.00	4.00
Overage	5	5.00	4.34	3.72
Confidence in sales values	5	3.00	3.00	4.00
Final Score out of 70%	70	62.60	58.14	56.42

Total Scores at Initial ITT

43. The tenderers financial and qualitative scores were then combined to produce the final scores for the Initial ITT, which are detailed in the following table:

Summary-Quality and Finance Initial ITT scores

Bidder	Quality	Finance	Total
Higgins Homes Plc	20.04	62.60	82.64
Bidder 2	18.54	58.14	76.68
Bidder 3	16.92	56.42	73.34

44. As the ITT stated that only two bidders would be shortlisted to move to the next stage Bidder 3 was eliminated from the procurement process as they attained the lowest total score of 73.34.

Final ITT

45. Key areas discussed during the negotiation process included the following: Legal Mark Up of the Development Agreement, Tenure mix, design standard, quality control, delivery timeline, consultation and risk management.
46. Once the negotiation sessions had concluded the Final ITT was issued to tenderers.
47. Although the majority of the questions were the same for the initial and final ITT there were additional questions which tenderers needed to answer which focused mainly on design issues, social values, sustainability and funding. Tenderers also had the option to improve on the responses to the initial tender following feedback and discussions had during the negotiation sessions.
48. The same evaluation process was followed for the final ITT as was undertaken for the initial ITT.
49. Although both Higgins Homes Plc and the other bidder submitted a Final ITT and were both evaluated accordingly, the results below are only for Higgins Homes Plc as the other bidder notified the council of their decision to withdraw from the process on the 24 October 2018.

Quality (30%)

50. The table below details Higgins Homes Plc scores for each area for the final ITT following the consensus scoring process:

Table 1: Higgins Homes Plc Quality Scores

Area	Out of %	Final ITT	
		Score	%
Programme	12	3	7.20
Design and Quality	48	23	36.20
Risk, Project Methodology and Resources	17	13	10.80
Working in Partnership	12	11	9.00
Social Value	11	15	8.20
Total Unweighted (out of 100%)	100		71.40
Final Score - Weighted (out of 30%)	30		21.42

Financial (70%)

51. During the negotiation sessions tenderers were asked to provide the council with a sliding scale demonstrating the maximum amount of affordable habitable rooms they could provide against a break even position (capital receipts of £0). As all Tenderers were able to provide a break even or positive position when providing 50% affordable habitable rooms the council decided to require all tenderers at the Final ITT to provide a final tender based against the maximum land offer and 50% affordable habitable rooms (as opposed to the original value of 40.4% habitable rooms).
52. The total financial scores for Higgins at the Final ITT is detailed below (all results have been rounded up or down to two decimal point):

Higgins Homes Plc- Financial Scores

Questions	% Weighting	Weighted %
Employers Requirements	2	1.60
Funding	3	1.80
Land Offer	50	50.00
Confidence in assumptions	5	3.00
Overage	5	5.00
Confidence in sales values	5	3.00
Final Score out of 70%	70	64.40

Total Scores for Final ITT

53. Although the bidder that pulled out of the tender following submission of the Final ITT, it had already been identified that Higgins were in line to win this tender as their total scores once the qualitative and financial scores were combined were higher than the bidder that pulled out. As detailed in the closed report.
54. Higgins Homes Plc total score for the final ITT once qualitative and financial scores are combined is detailed in the following table:

Bidder	Quality	Finance	Total
Higgins	21.42	64.40	85.82

55. Higgins Homes Plc obtained at least minimum scores or above on all the questions that required minimum scores for both the initial and final tender. The council has attained best value for this lot as this was a competitive tender and Higgins submitted the most economically advantageous tender, further information on how this proposal represents best consideration is detailed in paragraph 89 in this report.

Plans for the transition from the old to the new contract

56. NA

Plans for monitoring and management of the contract

57. One of the Programme Managers in the Regeneration Team will be responsible for managing the programme and a project manager in the team will be responsible for the day to day delivery of the project.
58. The Development Agreement sets out the following reporting arrangements:
- a. There are processes in place to manage the design process to ensure that the planning application is in line with the council's requirements..
 - b. The council's clerk of works shall be entitled to attend site meetings and the council and its clerk of works shall have rights in relation to accessing the site to inspect the works.
 - c. An Independent Certifier will be appointed to sign off practical completion of the units and the council will be entitled to make representations to the Independent Certifier in relation to the sign off of those units being retained by the council.
59. A progress report that will be presented to DCRB every six months.
60. An annual progress report that will be presented to CCRB.

Identified risks for the new contract

61. The following risks have been Identified risks for this Development Agreement:

Risk No.	Identified Risk	Likelihood	Risk Control
1.	Inability to execute development agreement in time to achieve contract start.	Low	Legal Mark Up identifying issues in the DA have been discussed and concluded and the both parties are happy with the outcome.
2.	Failure to achieve planning consent for post-consent revisions results in delay to start on site	Low	The DA gives the council the ability, to ensure that post consent revisions are reviewed and managed effectively.
3.	Delays to the programme, Termination of contract	Low	Robust monthly meetings to be held to deal with delays and the

Risk No.	Identified Risk	Likelihood	Risk Control
	before completion of the flats.		contract terms will be reviewed on a regular basis. Monthly site meetings will address issues around delays and corrective actions taken.
4.	Failure to achieve Southwark's design standard	Low	DA process for approval of the detailed designs by the council. Effective quality control on site. Monthly site meetings to monitor quality, costs and time. A Clerk of Works and an Independent certifier to be appointed to monitor quality control and compliance to the Design Guide.
5.	Reputational damage due to poor community engagement during the delivery process.	Low	The council will facilitate community engagement and ensure that the developer enables the council to comply with the council's charter principles. As part of the developer's submission, a clear and robust consultation strategy was submitted and the council will monitor the implementation of this strategy.
6.	Mobilisation/construction delayed due to unforeseen site issues	Low	To evaluate pre construction design and technical issues. Site has been de-risked to a great extent and the process will continue.
7.	Developer becomes insolvent or no longer has the capacity to deliver scheme	Low	Robust financial assessments undertaken including independent financial and credit checks of businesses. A recent independent financial credit check undertaken shows a very low risk of the business failing.
8.	Developer fails to meet contract conditions around employment and training and marketing new homes to local people	Low	To be monitored on a monthly basis. Part of the deliverables agreed at pre contract.
9.	Rights of light matters impeding the Development	Medium	Resolution of rights of light matter is a DA condition precedent. The Council is considering appropriating the site for planning purposes. In the event that the Council proceeds on that basis the Developer will indemnify the Council against any resulting claims for compensation.
10	Third party rights that can	Low	Appropriation of land involves

Risk No.	Identified Risk	Likelihood	Risk Control
	impede the development		<p>overriding the rights of third parties. However their rights are not extinguished, they are converted into a right to receive compensation for the loss of that right, rather than a right to seek an injunction to stop the interference with that right.</p> <p>The award is not subject to the land being appropriated. The council states in the ITT document that it will use its reasonable endeavour to appropriate the land subject to all necessary approvals.</p>
11	Section 77 not obtained	Medium	Application to the Secretary of State submitted and all statutory consultations have been undertaken pending approval. The contract cannot be awarded unless Section 77 is obtained.

Community impact statement

62. Under the Equality Act 2010's Public Sector Equality Duty (PSED), as a public body we must have due regard to the need to:

- a. Eliminate unlawful discrimination, harassment and victimisation
- b. Advance equality of opportunity between different groups
- c. Foster good relations between different group

63. Preliminary consultation to capture the needs and priority of displaced or impacted groups as a result of the development proposal has been undertaken. Groups engaged under the council's statutory consultative procedures so far have focused on two distinct communities (geographical communities and community of identify) consultees have been internal stakeholders and residents that lived or accessed services at Cherry Garden site.

64. The next stage of engagement to fully meet obligations under the Equalities Act 2010 are as follows:

- Provide an in-depth equality data collection and analysis.
- Use information to mitigate any negative impact to known protected groups.
- Data collection processes will incorporate households and businesses in the vicinity of the site

Social Value considerations

65. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The social value considerations included in the tender (as outlined in the

Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract. Details on the provision of apprentices is as shown in paragraph 9 in this report.

Economic considerations

66. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. Higgins have confirmed that they will ensure that LLW will be paid to all staff working on this project as well as sub contractors and consultants who will be working on this project
67. The council can exclude companies who break the law by blacklisting or have not put into place genuine actions concerning past black listing activities. The council can require “self cleaning” which enables a potential contractor to show that it has or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide evidence that the measures taken by the economic operator are sufficient to demonstrate it has:
 - “owned up”: clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities.
 - “cleaned up”: taken concrete technical, organisational and personal measures that are appropriate to prevent further criminal offences or misconduct, and
 - “paid up”: paid or undertaken to pay compensation in respect of any damage caused.
68. Higgins have confirmed that they are not in breach of the requirements under Regulations 3(1) of the Employment Relations Act 1999 (Blacklisting) Regulations 2010 as part of the tender submission.
69. Delivery of the Southwark Regeneration in Partnership programme will be subject to Section 106 that will include initiatives for the development and support of many areas which include employment framework, Employment, Training, Education, Open Space, Transport, etc. This particular site is providing employment and training in the form of 14 apprentices who will all be on recognised courses and work to an apprenticeship programme.
70. Development of the partnership agreement includes a commitment for the developer to promote and use local suppliers and businesses where applicable.

Social considerations

71. The programme will provide high quality new developments that will meet differing housing needs which will include, residential, health, education.
72. This scheme will also provide fourteen apprenticeship places who will be on a recognised course and work to an apprentice framework.
73. Establishing a robust and effective Development Partnership will enable the council to maximise the utility, value and quality of buildings being delivered, which will impact greatly on improved social environments for current and future generations, while minimising the long term revenue costs to the council.

74. The new social rent homes will be retained by the council and let on the basis as existing council homes.

Environmental/Sustainability considerations

75. By investing in high quality and well designed buildings and estates the council aims to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough. Higgins have confirmed in their design proposal to provide high quality environment through a considered and detailed landscaping strategy. Amenity and play space provision all meet and exceed the standard set out in the London Plan.
76. Higgins Homes Plc have confirmed that they will work towards achieving zero carbon emission by achieving the council's target reduction rate for new council homes of 15% by 2020.
77. Delivery of the SRPP will benefit the environment through contributing to the following:
- a. Increasing the quality of the housing being delivered in the borough
 - b. Endorsing flood risk management policy

Market considerations

78. Cabinet in October 2015 was advised that successful delivery of the programme in a partnership venture depends on the continued good health of the property market in Southwark. The borough's good communications and improvements in transport infrastructure are good selling points for property sales. Relative to other parts especially in the north and west of London, Southwark still represents good value and will benefit from further enhanced transport links such as the Bakerloo extension. The wider demographics and strong demand generally for living space in London point to continued success. As long as economic factors remain positive, demand is anticipated to remain high.
79. The latest market indices (Right Move - October 2018) indicate that prices in Greater London have fallen by circa 1.4% in the last month and by 1.1% in the year to October.
80. The average London property asking price in October was £625,064, with the average Southwark asking price being £643,870.
81. Higgins Construction PLC are part of Higgins Group PLC who are a leading provider of innovative residential construction and regeneration developments across London and the South East for more than 57 years.

Staffing implications

82. The Housing Regeneration Programme Manager has the overall responsibility for the operational delivery of the programme. The Head of Regeneration, Capital works and Development will ensure that the programme is adequately resourced and delivered to the councils objectives, policies and procedures.

Financial implications

83. The net capital returns from the appraisals have not taken into account any grant input or planning and sales overage. GLA and Housing Zone Grant may be available to subsidise the scheme costs. The estimated grant for the 18 social rental units is £720,000 which will be payable to the council from the GLA.
84. The agreed sales overage payment to the council will be 50% of sales revenue received above the developer's projected total sales of the private units, less projected sales cost less Indexed Build Costs. This will be calculated 12 months after practical completion of the development or upon early termination/expiry of the Development Agreement and paid within 20 working days. In the event that the sales revenue does not exceed the agreed sales revenue at bid stage no overage will be payable to the council.
85. The council's preparatory costs of £126,196 will be paid by the developer as soon as the building lease is signed to commence the development.
86. The financial offer for the land of £1,200,000 will be paid no later than the sale of the first private unit is achieved. (see closed report for details).

Income Summary

Housing Zone Grant for 12 units	£720,000
To bid for additional grant for the remaining 6 units at £100k per unit	£600,000
Recoverable cost	£126,196
Financial land offer	£1,200,000
Overage- Estimated	50% of sales revenue above projected total sales of private units , less projected sales cost less Indexed Build Costs
Total Income Excluding Overage payment and additional grant to be bid for.	£2,646,196

87. Section 123 of the Local Government Act 1972 permits the council to dispose (most types of non-housing) land without the Secretary of State's consent providing that this is done for not less than the best consideration that could reasonably be obtained. If this is to be relied on the Council will have to achieve and evidence this. The report indicates at paragraph 90 that the consideration the council will receive for the disposal of the land is the best that can reasonably be obtained. In addition, the council may receive additional payments by way of overage based on the values achieved on the sales of the private units. If the council wishes to appropriate the land, this would be the subject of a separate Cabinet report at the relevant time. This power is contained in Section 122 of the Local Government Act 1972. Cherry Garden site was formerly a School site which now requires a Secretary of State Consent (Section 77 and Schedule 1 of the School Standards and Framework Act 1998 (SSFA 1998)). This applies to local authorities, governing bodies and trustees (such as those who hold land for voluntary and foundation schools) seeking consent to dispose of land that is being currently used or has been used for playing fields for the purposes for change from education to residential use. The site is currently held in the General Fund.

Investment implications-

88. The scheme has been competitively tendered on the open market via the OJEU and the council undertook series of detailed negotiations and clarifications during the procurement process to ensure that the scheme is de-risked and reduce the development risks significantly. The residual land offer to the council is also a fixed sum of £1,200,000 as well as the payment to the council a significant amount of the council's preparatory costs of £126,196 and 50.9% affordable housing consisting of 36.2% council retained units based on habitable room and 32.2% based on unit numbers. The intermediate units consist of 14.7% based on habitable rooms and 16.1% based on unit numbers. The total percentage of affordable housing based on unit numbers equates to 48.3%. Intermediate units consist of 80% market rent, London Living Rent and Shared Ownership units.
89. Given the current uncertainties in the current market this is a good offer and is recommended for acceptance.
90. The value of the 18 social rented units based on an average of £300,000 is equivalent to £5,400,000 plus the land offer of £1,200,000 and a recoverable council's cost of £126,000 gives a total benefit to the council of £6,726,000. The residual land value of the site if the site was sold in its current state on the open market has been valued by the council's property team at £5,000,000 and therefore represents best consideration.
91. The proposed development has been competitively tendered on the open market and the offer obtained from Higgins is based on an open market tender and evaluation.
92. The final submission that now forms part of this report is the final submission from Higgin and meets with the council's requirements in terms of the number of 1, 2 and 3 bed units which is in compliance with Southwark's Planning Guidance and also ensuring that the proposed development mix was based on habitable room basis and not just by unit numbers as shown in Table 2 above.

Second stage appraisal (for construction contracts over £250,000 only)

93. An independent financial check has recently been done through MINT UK and with a favourable score of 99) which means the likelihood of failure is 0.9%.

Legal implications

94. Please see the supplemental advice of the director of law and democracy at paragraph 101.

Consultation

95. A robust consultation strategy to involve internal and external stakeholders is central to the delivery of this programme. Internal and External stakeholders have been consulted in developing this scheme so far. Once the developer is appointed, the consultation strategy will be followed in detailed to ensure that maximum participation is achieved in the development and delivery of this project.
96. The following consultation events have been undertaken as follows:
 - First consultation held on the 22 July 2015
 - Second consultation 15 February 2016- On Line consultation

- Further consultation as part of the Section 77 statutory consultation on the 6 April 2016. Notices issued in the Southwark Newspaper
 - 25 April 2017- Section 77 Statutory consultation letters to the Head Teachers for disposal; of land within 0.5- 1 mile radius.
97. Ward Councillors have been updated on progress so far and continuous update will continue during the life of the project.

Other Implications or Issues

98. None

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (< Finance Concurrent Reference Number >)

99. This report is recommending the Strategic Director of Place and Wellbeing approves the award of the SRPP Lot A4 (Cherry Gardens school site) to Higgins Homes Plc. The award of this contract will deliver 18 new council homes, and generate a land receipt of £1.2m for the council. In addition to recovering its preparatory costs, when taking into account the value of the new council homes and land receipt, the council will receive a benefit of £6.6m in exchange for land with an estimated open market value of £5m. The council may benefit further from sales overage and also from the award of grant from the GLA estimated at £0.7m to subsidise the scheme costs. The delivery of new homes will contribute towards the council's ambitious plan to deliver 11,000 new council homes by 2043.

Head of Procurement

100. This report seeks approval from the Strategic Director of Place and Wellbeing in consultation with the Cabinet Member for Social Regeneration, Great Estates and New Council Homes for the award of Lot A4 from the Southwark Regeneration in Partnership Programme (SRPP), land at Cherry Garden School, Macks Road SE16, to Higgins Homes Plc to deliver the outcomes detailed in paragraph 11 with a development period of two years commencing from February 2019 subject to obtaining a Section 77 consent and approval being given for the disposal of the council's land at Manor Place and Braganza as detailed in paragraph 2.
101. The contract/development agreement being procured is subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR15). As noted in paragraph 17, the procurement was undertaken in accordance with regulation 29 of the PCR15 and the council's Contract Standing Orders. The tender followed a competitive procedure with negotiation with tenders evaluated against 70% price and 30% quality. Higgins' proposal represents best consideration as the council will receive a total benefit of £6,726,000 which is approximately £1,726,000 greater than if the land was sold on the open market with an estimated value of £5,000,000, further details are provided in paragraphs 88 to 90.
102. The report confirms the monitoring and management arrangements that will be in place during the life of the contract including how apprentices taken on by the contractor as a result of this contract will receive the necessary skills training.

Director of Law and Democracy

103. This report seeks the strategic director of place and wellbeing's approval to the award of contract for lot A4 (SRPP) to Higgins Homes Plc as further detailed in paragraphs 1-4. As noted in paragraphs 1 and 2, the award is subject to approval being given for the disposal of the land and S77 consent, and the timeline allows for such approvals to be obtained.
104. The contract/development agreement being procured is subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR15). As noted in paragraph 17, the procurement was undertaken in accordance with regulation 29 of the PCR15 and followed a competitive process with negotiation. Evaluation of the initial and final tenders received has been completed following the tender evaluation methodology set out in the tender, with Higgins being identified as having submitted the most economically advantageous tender, and therefore recommended for award.
105. Section 1 of the Localism Act 2011 provides local authorities with a broad power to do anything that individuals may do subject to any specific restrictions on local authorities contained in legislation. This legislation empowers the council to enter into the arrangements proposed by this report. The council has the power to dispose of land which is not held for housing purposes under Section 123 of the Local Government Act 1972 as long as the consideration is the best that can reasonably be obtained. Paragraph 90 confirms that the consideration represents the best that can reasonably be obtained. An option to dispose (as is granted by the development agreement) is also a disposal for the purposes of the Act.
106. The proposed development agreement is a legally binding agreement under which all parties including the council have obligations and responsibilities which in the event they are not fulfilled may give rise to legal liabilities.
107. The strategic director's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, and when making decisions to have regard to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) to advance equality of opportunity and (c) foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to (a). The strategic director is specifically referred to the community impact statement at paragraphs 62-64, setting out the consideration that has been given to equalities issues and to the consultation which has taken place (noted in paragraphs 95-96 which should be considered when approving the recommendations in this report).
108. Contract standing order 2.3 requires that no steps should be taken to award a contract unless the expenditure has been approved. Paragraphs 83-86 confirm the financial implications of this award.

Director of Exchequer (for housing contracts only)

109. NA

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature  Date...15/01/2019.

Designation Prof. Kevin Fenton, Strategic Director of Place and Wellbeing

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

1. DECISION(S)

As set out in the recommendations of the report.

2. REASONS FOR DECISION

As set out in the report.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION

Not applicable.

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION

Not Applicable

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST

If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.

Not Applicable

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Title of document(s) Gateway 1 Procurement Strategy Approval Southwark Regeneration In Partnership Programme	Regeneration/ Place and Well being	Prince Kamanda-0207- 525 7480
Link: X:\Housing\Housing regeneration initiatives\Major regeneration projects & SEI schemes\Housing Regeneration Programme\Procurement\Reports\Report Gateway 1 - Procurement Strategy Approval Southwark Regeneration in Partnership Programme Pr.pdf		
Title of document(s)	Regeneration/ Place and Wellbeing	Prince Kamanda-0207-525 7480
Link: X:\Housing\Housing regeneration initiatives\Major regeneration projects & SEI schemes\Housing Regeneration Programme\Procurement\Development Partner\Cabinet Report\Gateway 1\Gateway 1 - SRPP Procurement Approval Cabinet Report Oct 2015 Final.pdf		

APPENDICES

No	Title
Appendix 1	NA

AUDIT TRAIL

Lead Officer	Kevin Fenton/ Michael Scorer		
Report Author	Prince Kamanda		
Version	Final		
Dated	14 December 2018		
Key Decision?	Yes		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title		Comments Sought	Comments included

Strategic Director of Finance and Governance	Yes	Yes/No
Head of Procurement	Yes	Yes/No
Director of Law and Democracy	Yes	Yes/No
Director of Exchequer (for housing contracts only)	NA	NA
Cabinet Member	Yes	Yes/No
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes/No
Cabinet	NA	NA
Date final report sent to Constitutional/Community Council/Scrutiny Team		

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

Contract Name	Southwark Regeneration Partnership Programme (SRPP) LOT A
Contract Description	Development Partnership Agreement
Contract Type	Development Agreement
Lead Contract Officer (name)	Prince Kamanda
Lead Contract Officer (phone number)	0207-525 7480
Department	Chief Executive
Division	Regeneration
Procurement Route	OJEU
EU CPV Code (if appropriate)	NA
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed Price
Supplier(s) Name(s)	Higgins Homes Plc
Contract Total Value	£12,413,000
Contract Annual Value	NA
Contract Start Date	February 2019
Initial Term End Date	December 2020
No. of Remaining Contract extensions	Nil
Contract Review Date	N/A
Revised End Date	
SME/ VCSE (If either or both include Company Registration number and/or registered charity number)	NA
Comments	none
London Living Wage	Yes

This document should be passed to the member of staff in your department responsible for keeping your departmental contracts register up to date.