

Item No. 13.	Classification: Open	Date: 12 March 2019	Meeting Name: Cabinet
Report title:		Gateway 1 - Procurement Strategy Approval Main Contractor Procurement: Albion New Homes Schemes	
Ward(s) or groups affected:		Rotherhithe	
Cabinet Member:		Councillor Leo Pollak, Social Regeneration, Great Estates and New Council Homes	

FOREWORD – COUNCILLOR LEO POLLAK, CABINET MEMBER FOR SOCIAL REGENERATION, GREAT ESTATES AND NEW COUNCIL HOMES

With over 20,000 people on our council housing waiting list, and more than 2,000 children growing up in temporary accommodation, Southwark Council is committed to pressing ahead with our ambitious commitment to build 11,000 new council homes by 2043 (including an additional 1,000 by 2022).

This report sets out the contractor procurement route for delivering 39 new council homes – to be let at council rents on lifetime council tenancies - on 2 sites either side of Albion Street in Rotherhithe. At least half of the new council homes will be reserved for tenants who live in the immediate area who have an unmet housing need, ensuring local residents directly benefit from the new council homes and maintain their local social, childcare and family connections. The mix will also include 24 homes linked to median local incomes at London Living Rent, and 13 homes for outright sale to generate a social profit and have given first dibs to local residents.

In line with all other procurement on new council homes this report sets out that the successful appointee will have sign up to Considerate Constructors Scheme, will pay all trades workers a minimum London Living Wage, employ local apprentices, and not blacklist union members.

RECOMMENDATIONS

That the cabinet:

1. Approves the procurement strategy outlined in this report for a two stage design and build contract through the Notting Hill Genesis (NHG) framework, for the construction of the Albion new homes schemes (consisting of two sites - the former Albion Civic Centre and former Albion Primary School) for an anticipated period of 32 months commencing on 30 July 2019, at an estimated contract value of £22m, which includes the cost of the first stage tender process (pre-construction services agreement - PCSA) at an estimated value of £1.1m
2. Notes that the award of the PCSA will be approved as set out in paragraph 34 by the relevant chief officer in accordance with contract standing orders and in consultation with the cabinet member for social regeneration, great estates and new council homes.

3. Approves the delegation of the award decision in the Gateway 2 reports for the main works contract to the strategic director of housing and modernisation in consultation with the cabinet member for social regeneration, great estates and new council homes for the reasons noted in paragraph 37.
4. Notes that the original procurement strategy agreed by cabinet on 5 October 2015 in relation to these sites, identified as part of lot A2 within the Southwark Regeneration in Partnership Programme (SRPP) did not proceed as further detailed in paragraphs 6 and 7 of this report. Therefore, the recommended procurement strategy outlined in this report will replace the original procurement.

BACKGROUND INFORMATION

5. On 27 January 2015 the cabinet agreed the Southwark Regeneration in Partnership Programme (SRPP). The programme identified a number of council owned sites which had development potential. On 20 October 2015, cabinet agreed that the sites be packaged into two lots that allowed for a more manageable delivery for their development. Each site varied and presented an individual opportunity, which included mixed uses e.g. housing, commercial and education. It was envisioned that values would be realised for these assets by leveraging the investment and expertise of established developers through a joint partnership.
6. This report deals with the revised procurement approach for the Albion New Homes sites which were included in lot A of the Southwark Regeneration Partnership in Programme (SRPP). It was decided that these two sites should be packaged together due to the proximity of the sites and ease of construction logistics. Developing these works simultaneously will also save the council money on the cost of preliminaries. (Site plans of both these sites have been included in appendix 1)
7. In November 2017 the council published one OJEU notice for lots A1-A5 against which bidders were asked to register their interest. Following this each bidder completed a Standard Selection Questionnaire (SQ) and confirmed which lots they would like to bid for. The tender process for lots A1, A3, A4 and A5 have been progressing and whilst market interest was shown at the initial selection process stage and four developers were invited to tender, no final tenders were received for Lot A2 which consisted of the former Albion Civic Centre site and former Albion Primary School site.
8. The main reason for the lack of interest in lot A2 for the Albion sites was due to its poor viability as the former Albion Civic Site was seeking 100% affordable units and the former Albion Primary School was seeking 72.9% affordable units. As such, it would be very difficult to consider retendering these schemes to developers on this basis which led the council to consider other options for both these sites.
9. In October 2018 it was announced that the housing revenue account (HRA) cap would be removed. This resulted in the removal of the external limit on borrowing for building new homes; as such officers proposed that the council deliver these schemes via direct delivery method.
10. The delivery of these schemes will create new homes for Southwark's residents by providing 100% affordable housing on the Albion civic centre site and over 50% on the Albion primary school site.

11. Both schemes have been developed to RIBA Stage 3 and received planning permission to proceed in January 2018. They are therefore sufficiently developed to procure a contractor to progress through a two stage design and build contract.
12. The council will also appoint a client team comprising of a quantity surveyor and employer's agent (subject to separate gateway approvals) who will provide professional expertise and scrutinise costs and specifications during the two stage tender process. The appointment of these services and the main works contractor will allow the contractor's design team and council appointed team to work through the PCSA period to finalise the design to RIBA Stage 4, following which a main contract award will be made subject to a separate Gateway 2 approval.

Summary of the business case/justification for the procurement

13. The council has an ambitious target to deliver 11,000 new council homes by 2043. These will be delivered through a combination of in-fill development on our existing estates, purchasing some directly from developers, and developing land that the council owns.
14. The delivery of the Albion New Homes scheme will maximise and enhance the utility, value and quality of council owned land and will deliver high quality homes with improved streetscapes and permeability. Combined, they will provide 76 new council homes, 51% of which are social rented 31% intermediate and 17% private as detailed in the following table:

	Former Albion Civic Centre Site		Former Albion Primary School Site		Across all sites	
	Units	Percentage	Units	Percentage	Units	Percentage
Social Rented	14	47%	25	50%	39	51.3%
Intermediate	12	53%	12	22.9%	24	31.6%
Private			13	27.1%	13	17.1%
Total	26	100%	50	100%	76	100%

15. It is currently proposed that the private units will be sold by the council, however contractors will also be asked to include in their tender, proposals to manage sale of 13 private units, alongside an after sales process. This may provide a better partnership model for the council and the contractor and will be included as part of the tender documentation.
16. Please see paragraphs 40-42 within the policy section for further justification of this procurement.

Market considerations

17. These sites have a number of complexities associated with them owing to the adjacent Rotherhithe tunnel on the former Albion Civic Centre site and London overground rail tunnel below the former Albion Primary School site.
18. Attracting suitable contractors to procure the project and obtain value for money is a key market consideration. Careful design and construction consideration is required to be undertaken in liaison with Transport for London (TfL), and as such it is necessary for an experienced contractor to deliver these works. Preliminary soft market testing suggests that there are a number of potential contractors, with

relevant experience, whose services can be procured via a number of existing frameworks.

19. The construction industry appears to be quite buoyant at the moment, tender prices appear to be rising, and there is a high demand for construction services.
20. Although both these schemes were previously unsuccessful when procuring through a developer, the council believes that offering these sites through direct delivery as opposed to a development agreement will be attractive to contractors. In addition to this, the fact that the council has already obtained planning permission and both sites are already demolished means that the successful contractor will be able to start on site with no delay following contract award.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

21. As the value of these schemes combined are above the EU threshold for works it means that the full tendering requirements of the Public Contract Regulations 2015 and Public Sector Directive 2014/24/EU would apply. In choosing the preferred method of procurement, the following options have been considered:
22. **Do nothing** – this is not possible due to the council's commitment to deliver this project and the need to provide new council homes in the borough.
23. **Use an existing third party framework** – the frameworks relevant to this procurement are detailed below:
 - The Notting Hill Genesis (NHG) Framework – In 2017 Notting Hill Genesis set up four new development frameworks; one for contractors and three for consultants (CF1, CF2 and CF3). The frameworks commenced on 31 May 2017 and will run for four years. The constructor's framework consists of 23 contractors which can be selected directly or a selection invited to a mini-competition following an initial assessment of contractors' capability. A formal capability assessment is also able to be utilised as set out in the framework agreement. NHG do not charge a fee for authorised users to access this framework.
 - London Development Panel 2 (LDP2) – this is the new single lot framework developed by the Greater London Authority (GLA). It is a framework for residential-led developments to support the Mayor's ambition to accelerate housing development. This framework expires in August 2022. One of the panel services offered on this framework is 'construction of developments' and whilst there are a number of contractors listed, the framework is focused around developers as such there is a risk that the schemes could receive little interest through this framework.
24. **OJEU procurement using the restricted procedure** – this route would allow the council to procure from the greatest number of contractors and could provide the means to secure a competitive tender from contractors who have the skills and capabilities to construct these housing schemes who are not on the established frameworks. However, due to the length of the process, this route would delay the commencement date for the works starting on site.

25. Whichever procurement route is chosen, the council can tender either using a two stage tender design and build or traditional contract. A summary of the advantages and disadvantages of this have been outlined in the table below:

Contract	Advantages	Disadvantages
Two stage design and build contract	<ul style="list-style-type: none"> • Allows the council's client team to work with a contractor to finalise the design and value engineer the scheme • Provides better risk transfer to the contractor • Early contractor engagement allows the contractor to obtain current market prices for sub-contract packages • Enables the contractor to bring innovation and construction methods early into the design process 	<ul style="list-style-type: none"> • The council has less control over the design team • Design evaluation is subject to a separate consultant (i.e. Employers Agent)
Traditional contract	<ul style="list-style-type: none"> • The council has more control over the design team as it is a direct appointment 	<ul style="list-style-type: none"> • Soft market testing has shown that this may not be beneficial to design the scheme beyond Stage 3 without contractor input as there are benefits in engaging a contractor at this stage of the design process. As Contractors prefer early engagement, it could attract little interest if the designs are developed further.

Proposed procurement route

26. Taking the above into consideration, using a framework will be the fastest route for procurement as it enables the council to tender directly without having to go through the SQ stage. Out of the frameworks listed above, the Notting Hill Genesis framework appears to be the most appropriate framework for this procurement and offers a large number of contractors who are experienced in building new homes, working on major construction projects in constrained inner London sites. The council is confident that it will receive sufficient market interest through the direct delivery approach as both sites have planning permission and are demolished which makes them attractive to contractors.
27. The project team will undertake further design work necessary with the existing architects (Bell Phillips) and procure further ground surveys, to help mitigate design and construction risk prior to tender. This will enable the contractors to develop robust construction strategies and market test their main subcontractor packages in the first stage of tendering to provide greater cost certainty for the council prior to entering into a pre contract services agreement.

28. The NHG constructor's framework consists of 23 suppliers. The contractors which the council can access are:
- Ardmore Construction Limited
 - Buoygues
 - Bugler Developments Limited
 - Cablesheer Construction Limited
 - Durkan Limited
 - Galliford Try
 - Glenman Corporation Limited
 - Guildmore Limited
 - Henry Construction Projects Limited
 - Higgins Construction
 - Hill Partnerships Limited
 - Keepmoat Regeneration Limited
 - Kier Construction Limited
 - Kind & Co (Builders) Limited
 - Lovell Partnerships Limited
 - Mulalley & Company Limited
 - Roof Limited
 - Rydon Construction Limited
 - Taylor French Developments Limited
 - Thomas Sinden Limited
 - United Living (South) Limited
 - Wates Construction Limited
 - Wilmott Partnership Homes Limited.
29. All these contractors are of significant size and scale, and the majority of them have experience of working on housing projects in London.
30. As set out within the framework agreement, it is proposed a further detailed assessment of the contractors' previous completed developments be undertaken to establish capability of delivering quality housing schemes in order to shortlist the number of contractors that are invited to tender. An assessment report, setting out the justification for shortlisting, will be prepared and reviewed by a panel (consisting of the Project Manager, Head of Regeneration and the council's project team) in order to confirm a minimum of five contractors to be invited to tender for these works.
31. The contract will be JCT 2016 Design Build contract which is supported by the NHG framework and will contain the council specific amendments; a Parent Company Guarantee will also be required from the main contractor.
32. To use the NHG framework, the council was required to enter into an access agreement with NHG, this has now been signed by both parties and full access to the framework is now confirmed.
33. A two stage tender process is proposed, where tenderers will submit costs for overheads and profits, preliminaries and costs for the main sub-contractor packages and estimated prices for the overall scheme based on benchmarked rates. They will also submit a fee for undertaking pre-construction services. At this stage the council appointed quantity surveyor will ensure the costs reflect the current market rates

and provide value for money. The NHG framework supports two stage tendering within the framework agreement.

34. Once assessed, the pre-construction services agreement will be awarded following approval of a Gateway 2 report as noted in paragraph 2.
35. The successful contractor would be required to undertake various tasks in relation to the pre-construction services, design and planning of the construction works, including to:
 - Contribute to the design process itself
 - Advise on buildability, sequencing, and construction risk
 - Advise on the packaging of the works (and the risks of interfaces between packages)
 - Advise on the selection of specialist contractors
 - Help develop the cost plan and construction programme
 - Help develop the method of construction
 - Obtain prices for work packages from sub-contractors or suppliers on an open book basis
 - Prepare a site layout plan for the construction stage showing temporary facilities
 - Draft the preliminaries for specialist and trade contractor bid documents
 - Assist with any planning requirements on matters concerning the build phase, such as; waste disposal proposals, construction traffic movements, tree preservation protection etc.
 - Tendering all of the sub-contract packages to identify a contract price for the main works for the council's approval.
36. Whilst it is usually the case that the second stage award will be made to the successful tenderer for the pre-construction services, it is not mandatory to do so and the council reserves the right to re-tender should the fixed price for the main works contract not be acceptable following tender of all sub contractor packages. If the council approves the main works price, approval to proceed with contract award will be sought through a second Gateway 2 report.
37. In order to expedite the process the council is seeking to attain delegated approval for the contract award (Gateway 2) for main contractor works. This will enable a quick transition process from contract recommendation to award which is necessary for the council to meet its targets. If there was a requirement for a Gateway 2 to be presented to Cabinet for the main works contract, this may have a serious impact upon the delivery timescales.

Identified risks for the procurement

38. The key risks for the main works are as follows:

Risk No.	Identified Risk	Likelihood	Risk Control
1.	Insufficient interest from framework providers in the tender which results in no bids.	Low	The council carried out soft market testing in February 2019 and this revealed that there is sufficient market interest and capacity. The council will also develop a procurement brief that is sufficiently detailed and clear, so that providers can make an informed choice as to whether they wish to pursue this opportunity.
2.	Does not achieve competitiveness and value for money.	Low	The tender will be assessed on a Price and Quality basis. The two stage procurement process will ensure that the council is able to obtain construction price competition prior to entering into the second stage and a pre construction services agreement.
3.	Construction market inflation.	Medium	Cost manager and contractor to work together to mitigate and foresee construction market inflation risks. Council to ensure that they have an adequate project contingency in the design stage prior to commencing procurement.
4.	Contractor becomes insolvent or no longer has the capacity to deliver scheme	Low	Robust financial assessments will be undertaken including independent financial and credit checks of businesses prior to award.
5.	Mobilisation/construction delayed due to unforeseen site issues	Low	Council to ensure that the internal and external resources are in place to deliver the project in a timely manner. Site has been de-risked through extensive site investigations and entering in to Pre Contract Services Agreement (PCSA) to eliminate pre construction design and technical issues prior to start on site.

Key /Non-key decisions

39. This is a key decision.

Policy implications

40. The new homes 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.

41. 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.
42. 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:
- 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
 - Direct growth to certain areas of the borough, predominantly in Elephant and Castle, Canada Water, East Walworth, Blackfriars Road, Bankside and along the river Thames where there is greater public transport accessibility
 - 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.

Procurement Project Plan (Key Decisions)

Activity	Complete by:
Enter Gateway 1 decision on the Forward Plan	05/02/2019
DCRB Review Gateway 1	18/02/2019
CCRB Review Gateway 1	21/02/2019
Brief relevant cabinet member (over £100k)	07/02/2019
Notification of forthcoming decision - Cabinet	04/03/2019
Approval of Gateway 1: Procurement strategy report	12/03/2019
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	20/03/2019
Shortlisting of contractors	04/04/2019
Completion of tender documentation	29/03/2019
Invitation to tender	05/04/2019
Closing date for return of tenders	24/05/2019
Completion of any clarification meetings/presentations/evaluation interviews	07/06/2019
Completion of evaluation of tenders	21/06/2019

Activity	Complete by:
DCRB Review Gateway 2:	01/07/2019
CCRB Review Gateway 2	04/07/2019
Notification of forthcoming decision	08/07/2019
Approval of Gateway 2: PCSA Contract Award Report	16/07/2019
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	25/07/2019
Debrief Notice and Standstill Period (if applicable)	29/07/2019
Contract award for PCSA	30/07/2019
Add to Contract Register	30/07/2019
Place award notice on OJEU/Contracts Finder	30/07/2019
Contract start	31/07/2019
Initial contract completion date	31/01/2020
Invitation to submit second stage proposal	January 2020
Closing date for return of second stage proposal	February 2020
Completion of any clarification meetings/presentations/evaluation interviews	March 2020
Completion of evaluation of proposal	March 2020
DCRB Review Gateway 2:	April 2020
CCRB Review Gateway 2	April 2020
Notification of forthcoming decision	April 2020
Approval of Gateway 2: Contract Award Report	April 2020
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	May 2020
Contract award for Main Works	May 2020
Add to Contract Register	June 2020
Place award notice on Contracts Finder	June 2020
Contract start	June 2020
Contract completion date	March 2022

TUPE/Pensions implications

43. There are no TUPE implications for the council as an employer as there are no, nor will there be, council employees undertaking these works being procured through the NHG framework. TUPE should not apply to the appointment of a contractor to deliver the contract for pre construction services and the contract for construction works for the Albion New homes Schemes. These are new contracts for discrete works and there is currently no existing contractor, nor are there any council staff delivering the work which is being procured. TUPE should not apply on the expiry

of the contract as the works will have been completed. However, the position will need to be reviewed in the event that during the course of the contracts the council has to appoint a replacement contractor or brings the work in-house or if a contractor appoints a replacement sub-contractor during the course of any relevant sub-contracted works.

Development of the tender documentation

44. Due to the programme timescales and the associated benefits of engaging the main contractor as early as possible in the design process, the project team have identified a two stage design and build process as the most effective means of procurement and securing value for money. It is proposed to use a JCT 2016 Design Build contract, with council specific amendments.
45. Consultancy services are being appointed by the council to undertake the following activities: development of the tender documentation, commissioning of any remaining surveys; and finalise the details of the RIBA Stage 3 design.
46. The consultancy team and Southwark project management team will ensure a comprehensive set of tender documents are prepared. The team has developed plans to RIBA stage 3 and will work with contractors to develop the detailed design and supply chain to RIBA stage 4.
47. Contractors will be aware of the council's design team, and may decide to appoint them to RIBA stage 4 which would offer benefits and ensure the key elements of the design are retained. The design team understand the complexities of the association with Transport for London (TfL) and the detailed design and construction implications for the entire site.

Advertising the contract

48. Companies listed under the Notting Hill Genesis framework will be invited to tender framework via the council's electronic tender portal - ProContract.

Evaluation

49. As there are no specific evaluation requirements stipulated within the NHG framework the award criteria will follow the Most Economically Advantageous Tender (MEAT) protocol. The assessment of the tenders will be based on price: quality ratio of 60:40 in recognition of the need to ensure the level of quality and skills required are achieved in order to address the issues surrounding TfL and the interface that will be required. This percentage split is permitted when using the NHG Framework.
50. Price (60%) shall be evaluated by the Quantity Surveyor who will compile a report with recommendations based on cost of overheads, preliminaries, profits and target cost of the main works. The percentage split for these elements will be determined prior to the invitation to tender.
51. Quality (40%) shall be evaluated by project manager, quantity surveyor and programme manager.
52. The use of the social value portal will be explored and, if used, may have an impact on the overall quality / price split. Full details will be set out within the Gateway 2 report.

53. The tender panel will evaluate the quality of submissions and will score each question out of 5 as detailed in the following table. Contractors scoring 1 point or less on any method statement question will not proceed to the next stage of the evaluation process.

Assessment	Score	Basis of score
Cannot be scored	0 points	No information provided or incapable of being taken forward either because the supplier does not demonstrate an understanding of our requirements or because the solution is incapable of meeting our requirements
Unsatisfactory	1 point	Although the supplier does demonstrate an understanding of our requirements there are some major risks or omissions in relation to the proposed solution to deliver the service and we would not be confident of our requirements being met
Satisfactory	2 points	A response which is capable of meeting our requirements but is unlikely to go beyond this
Good	3 points	A response which shows that the supplier demonstrates an understanding of our requirements has a credible methodology to deliver the service and could evolve into additional benefits.
Very Good	4 points	A response which shows that the supplier demonstrates an understanding of our requirements, has a credible methodology to deliver the service alongside a clear process and plan to deliver additional benefits and deliver value
Excellent	5 points	A response which shows how the service can comprehensively be taken to the next level in terms of exceeding our requirements and/or offering significant added value to the council's overall strategic requirements and objectives.

54. Tenderers will be required to provide information to support their quality submission that demonstrates their ability to fulfil the requirements that were outlined in the Employers Requirements. The quality assessment will be based on the criteria detailed below, with each criterion weighted in relation to the level of importance put upon it:

- Resources to meet the requirements of the contract
- Quality control
- Contract management and delivery
- Experience in delivery complex housing schemes, qualifications and track record of the team proposed by the contractor.

55. Tender evaluation guidelines and criteria will be included in the tender documentation.

56. All scores will undergo a consensus scoring process. Post tender clarification will be raised if required
57. The overall score for evaluation will be calculated by adding the scores for price and quality together. The contract will be awarded to the highest ranked tenderer.
58. Where there are joint scores for the highest place the award will be based on the highest score achieved on price. This will be declared in the tender document.

Community impact statement

59. A community impact statement will be collated to capture community priorities, issues and needs, in particular groups displaced or impacted by the development proposal. It is proposed that the community impact statement will focus on two distinctive communities:
 - Geographical communities - people living, accessing or working close to the development.
 - Community of identity – groups that share characteristics such as the older people, minority ethnic groups, faith groups, people with disabilities and young people, etc.
60. Indicative groups the council will seek to consult with will be service users, internal stakeholders and affected businesses.
61. Officers will conduct an equalities impact assessment to ensure that there is no disproportionate or discriminatory impact on groups with protected characteristics. This assessment is done during the consultation period to ensure that all groups are fully engaged and consulted to ensure a fair development and delivery process. The views of various groups will be taken on board during the design and delivery process.

Social Value considerations

62. 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 details of how social value will be incorporated within the tender are set out in the following paragraphs.

Economic considerations

63. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. It is expected that payment of the LLW by the successful contractor for this contract will result in quality improvements for the council. These should include a higher calibre of multi-skilled operatives that will contribute to the delivery of works on site that will provide best value for the council. It is therefore considered appropriate for the payment of LLW to be required. The successful contractor will be expected to meet LLW requirements and contract conditions requiring the payment of LLW will be included in the tender documents. As part of the tender process, bidders will also be required to confirm

how productivity will be improved by payment of LLW. Following award, these quality improvements and any cost implications will be monitored as part of the contract review process.

64. 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.
65. The council will request the necessary information from tenderers (using the council’s standard documentation in relation to blacklisting). The contract conditions will also include an express condition compliance with the blacklist regulations, and include a provision to allow the contract to be terminated for breach of these requirements.

Social considerations

66. The contract will commit the successful tenderer to the appointment of an Apprenticeship for every £1 million value of the contract.
67. The NHG framework includes for the delivery of employment and training initiatives for the demonstrable benefit of the community. These may include:
- Employment of local residents
 - Apprenticeships (to a minimum standard of NVQ Level 2 or above, such apprentices to be paid at least 25% above the National Apprenticeship Wage or higher)
 - Supporting work placements
 - Attendance at careers sessions with local schools and recruitment events
 - delivery of toolbox talks and seminars to enhance knowledge and skills.
68. The contract will be let in compliance with section 149 of the Equality Act 2010 under which the council has a duty to have due regard in its decision making processes to the need to:
- Eliminate discrimination, harassment, victimisation or other prohibited conduct
 - Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not
 - Foster good relations between those who share a relevant characteristic and those that do not share it.

Environmental/Sustainability considerations

69. The LBS's approach to procurement of the design, development and construction processes will ensure a requirement to maintain and improve sustainability at each stage in the project.
70. At design stage, requirements were in place to meet sustainable specifications. The lead architect on the project is required to "advise on the creative application of sustainability standards and the practical application of renewable energy and alternative forms of energy production".
71. During construction the appointed contractor will be required to adhere to guidelines outlined in the London Construction Guide which include and are not restricted to the following:
 - Procuring and using materials sustainably
 - Selecting materials with low lifecycle impacts
 - Using local materials
 - Use of materials with high recycled content
 - Meet minimum standards set out in Building Regulations.
72. All homes will have to achieve the Code for Sustainable Homes Level 5 (CfSH5); measures will have to be taken at all stages of development to achieve this. This code has however been changed to the New National Technical Standards which comprise new additional optional building regulations regarding water and access as well as a new national space standard (this is in addition to the existing mandatory Building Regulations). For example, requirement G2 of the building regulations concerns water efficiency. The current regulations state that the potential water consumption by occupants of a new dwelling must not exceed 125 litres per person per day. This regulation remains in place but there is now also an optional higher standard which states that the potential water consumption by occupants of a new dwelling must not exceed 110 litres per person per day. This higher standard may be imposed by the planners. With regards to access, requirement M4 (sanitary convenience in dwellings) of the building regulations have added additional higher standards, M4 (1), M4 (2) and M4 (3) and one of these may be imposed by planners.
73. At design stage, requirements will be in place to meet sustainable specifications including the following:
 - Energy efficiency
 - Reduce carbon emissions
 - Conserve water & energy
 - Mitigate flooding risk
 - Safeguarding biodiversity.
74. Specifications outline that there should be an efficient approach to waste management. At design stage there is direction for designers to exercise reasonable skill care and diligence in the selection of materials. At construction stage contractors are required to minimise construction waste and maximise the use of recyclable / re-usable products and materials.

75. Specifications stipulated within the employers requirements will ensure that development activity is controlled in a way that positively contributes to achieving sustainability.

Plans for the monitoring and management of the contract

76. The project manager oversees a delivery team consisting of a lead consultant design team, technical advisor and quantity surveyor to ensure effectively delivery of the project and works.
77. Annual performance reports will be presented to DCRB and CCRB on a six-monthly and annual basis, respectively.

Staffing/procurement implications

78. The project manager responsible for the delivery of the overall programme, under the management of the head of regeneration capital works and development who will be responsible for ensuring that the programme is adequately resourced and coordinated to deliver its objectives and procured efficiently and effectively in accordance with best practice for major projects procurement.

Financial implications

79. The report is recommending a procurement strategy, so at this stage there are no financial implications arising directly from the report's recommendations. The estimated cost of the pre construction and construction costs is £22m which is indicative at this stage.
80. The cost of these works has been included within the council's Housing Investment Programme and will be met from HRA capital resources, identified for new builds including RTB receipts, Grants, S106 and borrowing as appropriate.

Investment implications

81. Please see strategic director of finance and governance commentary below.

Legal implications

82. Please see concurrent from the director of law and democracy.

Consultation

83. Both schemes underwent public consultation in February 2017 and a general positive response was received to these schemes.
84. Formal consultation also took place as part of the planning submission and no objections were received for either site.

Other implications or issues

85. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M18/098)

86. This report seeks approval from Cabinet for the re-procurement strategy to deliver new homes on the Albion Civic centre and Albion Primary school sites. The project will deliver 63 much needed new council homes at social and affordable rents as well as 13 for private sale. It is noted that there is no financial implications directly arising from this report's recommendation.
87. The report further seeks approval from cabinet to delegate the award of works contract to the strategic director of housing and modernisation in consultation with the cabinet member for social regeneration, great estates and new council homes to enable a quick transition process in order to award the contract.

Head of Procurement

88. This report seeks the approval of Cabinet for the procurement strategy for a two stage design and build contract from the Notting Hill Genesis framework agreement, for the construction of the Albion new homes schemes (consisting of two sites - the former Albion Civic Centre and former Albion Primary School). It is anticipated that the contract period will be for 32 months, commencing on 30 July 2019. This site was part of lot A2 within the Southwark Regeneration in Partnership Programme (SRPP) that did not proceed for reasons detailed in the report.
89. The first part of the two-stage process involves award of a Pre-Construction Services Agreement (PCSA) at an estimated cost of £1.1m that would be awarded in line with the contract standing orders by the relevant chief officer but also after consultation with the relevant cabinet member.
90. The award of the main contract for these works is requested to be delegated to the strategic director of housing and modernisation in consultation with the cabinet member for social regeneration, great estates and new council homes for the reasons of expediency that are noted in paragraph 37.
91. The Notting Hill Genesis Housing framework agreement is open to Southwark Council to use. London Living Wage (LLW) is applicable and would be paid via the contract. The evaluation of the contracts will be in line with the framework agreement but will look to include social value, including an apprenticeship per £1m spend.
92. The plans to manage the contract are set out in paragraphs 76-77.

Director of Law and Democracy

93. This report seeks the cabinet's approval to the procurement strategy in relation to the Albion new homes scheme through use of the NHG framework as further detailed in paragraph 1. As this approval relates to a strategic procurement, the decision is reserved to the cabinet.
94. The scope and estimated value of these works is such that the procurement is subject to the full tendering requirements of the Public Contracts Regulations 2015. However, and as noted in paragraph 26, it is the intention to undertake a further competition through the NHG framework, which has been procured and established

following an EU compliant tendering process. The council is a body permitted to use the NHG framework and therefore any award made under that framework (if undertaken in accordance with the framework's processes) will satisfy those EU tendering requirements. It is the intention to follow a two stage process, with initial appointment through a pre-construction services agreement and works awarded through a separate JCT design and build contract. Contract Standing Order 5.1.2 provides that any procurement involving the use of a third party's Framework contract is subject to the usual Gateway 1 procedures. This report therefore seeks approval to the use of the NHG framework.

95. Approval is also sought to delegate the gateway 2 award decision to the Strategic Director of Housing and Modernisation in consultation with the relevant cabinet member for the reasons noted in paragraph 37, which will assist the targets for award to be achieved.
96. The cabinet'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 cabinet is specifically referred to the community impact statement at paragraphs 59-61 setting out the consideration that has been given to equalities issues and to the consultation which has taken place (noted in paragraph 83) and the plan to conduct an equalities impact assessment during the design and delivery process, which should be considered by cabinet when approving the recommendations in this report.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Gateway 1 - Southwark Regeneration in Partnership Programme Procurement Approval	Regeneration – Capital Works and Development, 5 th Floor, Hub 1, Tooley Street, London, SE1 5LX	Hemali Topiwala 020 7525 0530
Link (please copy and paste into your browser): http://moderngov.southwark.gov.uk/documents/s57186/Report%20Gateway%201%20-%20SRPP%20Procurement%20Approval.pdf		
Southwark Regeneration in Partnership Programme	Regeneration – Capital Works and Development, 5 th Floor, Hub 1, Tooley Street, London, SE1 5LX	Hemali Topiwala 020 7525 0530
Link (please copy and paste into your browser): http://moderngov.southwark.gov.uk/documents/s51232/Report%20Southwark%20Regeneration%20In%20Partnership%20Programme.pdf		

APPENDICES

No	Title
Appendix 1	Site layout plans

AUDIT TRAIL

Cabinet Member	Councillor Leo Pollak, Social Regeneration, Great Estates and New Council Homes	
Lead Officer	Stephen Platts, Director of Regeneration, Place and Wellbeing	
Report Author	Hemali Topiwala, Project Manager, Regeneration, Capital Works and Development	
Version	Final	
Dated	28 February 2019	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		28 February 2019