

Item No.	Classification: Open	Date: 30 May 2019	Meeting Name: Strategic Director of Place and Wellbeing
Report title:		Gateway 2 - Contract Award Approval, Disposal of Lease and Acquisition of Sub Lease. Southwark Regeneration in Partnership Programme Lot A3, 345 Southwark Park Road SE16	
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. Approves the award of the Southwark Regeneration in Partnership Programme Lot A3, 345 Southwark Park Road, to Lovell Partnerships Ltd for a period of two and half years commencing from November 2019 and completes in January 2022 at a residual land value of £489,961, to deliver 46 new homes (of which 22 will be council homes) and 580m2 of commercial space that will be retained by the council.
2. Approves the council making a capital contribution of £1,400,000 to Lovell Partnerships 50% at start on site, and the balance 50% at practical completion stage, further details of which are noted at paragraph 14.
3. Authorises the Director of Regeneration to grant on satisfaction of the conditions precedent to the Development Agreement, a 250 year lease at a peppercorn rent.
4. Authorises the Director of Regeneration to enter into a “250 year lease less one day” sub lease in the social rent and commercial units to be granted on practical completion of the development, and at a peppercorn rent.
5. Notes that the Strategic Director of Place and Wellbeing is taking the acquisition decision in the absence of the Director of Regeneration, and in consultation with the Strategic Director of Housing and Modernisation, and the Cabinet Member for Social Regeneration, Great Estates and New Homes.
6. Notes 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 stage of £14,500,000 less any increase in build costs by reference to the BCIS Index.
7. Notes that the council will receive a total benefit of £6,045,917 as laid out in paragraph 85 and taking into account a capital contribution by the council of £1.4m, results in a value which is approximately £545,917 greater than if the land was sold on the open market with an estimated value of £5,500,000, further details of which are noted at paragraph 56, Table 4.

BACKGROUND INFORMATION

8. Cabinet agreed on the 27 January 2015 to the creation of the Southwark Regeneration in Partnership Programme (SRPP). The aim of the programme 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.
9. 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.
10. 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 to deliver the mixed tenure housing, commercial units and schools that comprised the lot and have an estimated total Gross Development Value of £278,300,000.
11. In March 2017, Cabinet approved the delegation of the award decision in the Gateway 2 reports for lots A1 – A4 inclusive to the Chief Executive in consultation with the Cabinet Member for Regeneration and New Homes. 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. In September 2018, the regeneration department ceased to be part of the Chief Executive Department and became part of the Place and Wellbeing Department.
12. In May 2019, the Leader of the Council delegated authority to authorise the disposal of this site and enter into a sublease for the retained units to the Strategic Director for Place and Wellbeing.
13. This report deals with the award of Lot A3, 345 Southark Park Road which is part of the Southwark Regeneration Partnership Programme LOT A.

Table 1: 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 as part of Lot C or another procurement or development route.

Procurement project plan (Key Decision)

Activity	Completed by/Complete by:
PIN Notice Published	07/10/2016
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
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
Negotiation Session 1 held	09/03/2018
Negotiation Session 2 held	02/05/2018
Issue Final Invitation To Tender	04/06/2018
Briefed relevant Cabinet member (over £100k)	25/06/2018
Closing date for return of Final Invitation to Tender	13/07/2018
Evaluation of Tenderers	20/07/2018
Clarifications completed	03/09/2018
Completion of evaluation of tenders	03/09/2018
Complete Gateway 2 draft	09/03/2019
DCRB Review Gateway 2	21/05/2019
CCRB Review Gateway 2	30/05/2019
Notification of forthcoming decision – 5 clear working days	14/06/2019
Approval of Gateway 2: Contract Award Report	26/06/2019
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	05/07/2019
Debrief Notice and Standstill Period (if applicable)	08/07/2019
Contract award	28/11/2019

Activity	Completed by/Complete by:
Add to Contract Register	29/11/2019
Publication of award notice in Official Journal of European (OJEU)	29/11/2019
Publication of award notice on Contracts Finder	29/11/2019
Contract Start	10/01/2020
Contract completion date	10/01/2022

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

14. 345 Southwark Park Road, SE16 (Lot A3) has an estimated total Gross Development Value of £15.5m and this award to Lovell Partnership Ltd (Lovell) will deliver 46 new homes consisting of 141 habitable rooms of which 50.3% will be council owned based on habitable room basis (see breakdown by tenure and bed size in Table 2), 580m² of new B1/D1 commercial space on the ground floor that will be retained by the council, a potential for overage payment at 50% of sales above £14,500,000 projected sales (less projected sales costs and indexed build costs) and a land receipt of £489,961, which will offset the council's £1,400,000 capital contribution.

15. Planning permission has not yet been obtained, and the developer will be responsible for submitting the planning application with the council's approval. The bid is based on the developer providing the minimum social and intermediate housing units, as stated in recommendation 1 and the land offer of £489,961. The Development Agreement is explicit about what constitutes a satisfactory planning application being one that the council approves based on what has been agreed at bid stage.

16. The terms of the lease prevents the developer from selling the site to a third party until completion of the development in accordance with a "satisfactory" planning application agreed between the council (regeneration department) and the developer. The lease will be granted on satisfaction of the conditions precedent as follows to the Development Agreement:

- Grant of satisfactory planning permission
- Vacant possession
- Obtaining all required consent
- Finalising the Development Agreement
- Satisfying all conditions

17. Table 2: Lot A3 Accommodation Schedule

	Council Retained units	Private Developer's units	Total
1 Bedroom	8	10	18
2 Bedroom	10	9	19
3 Bedroom	4	5	9

Total Units	22	24	46
Total Habitable Rooms	71	70	141
Percent (%) by habitable room	50.3%	49.7%	100%
Percent (%) by unit basis	47.80	52.2	100%
Commercial Space	580m2		580m2

18. The scheme will also deliver:
- a. Nine apprenticeship places in line with the council requirement to provide 1 apprentice per £1m spent.
 - b. Private sale homes will be marketed to Southwark residents and this scheme will benefit from plots which fall into the government Help to Buy Scheme which will assist the sales rate.
 - c. Revenue generated from the sales above the projected sales threshold of £14,500,000 (overage) will be divided equally between the council and Lovell.
19. The council's preferred procurement for a Development Partner in this programme is via a Development Agreement. The advantages of using a Development Agreement are:
- Forward funding by the developer for the construction of the site. The council only puts forward the land and the capital contribution to the development.
 - Risks - the developer retains responsibility for dealing with third party issues such as interference with rights of way even beyond the end of Defects Liability Period.
 - The development/funding agreement will also have a practical completion (PC) approval mechanism in place to make sure the council is satisfied that practical completion has properly taken place and/or a third party has determined satisfaction.

Key/Non Key decisions

20. This report deals with a key decision

Policy implications

21. The SRPP 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.
22. 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.
23. 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 the regeneration strategy and will also be used to make decisions on planning applications.

Tender process

24. The council published one OJEU notice for all Lots, including this tender, to which bidders were asked to register their interest 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 lots. 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.
25. The procurement route that was recommended in the Gateway 1 report followed a competitive procedure with negotiation which was used in this procurement and 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, in that the council would have the option of selecting a bidder (based on its written tender) at an early stage or short listing a number of bidders if it wanted to negotiate any element of their bids
 - the main advantage of being able to undertake negotiations with bidders to clarify certain aspects of their initial bid and/or address elements which fall short of the council's objectives
26. 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 they had or had not been successful and an Invitation to Tender (ITT) was issued to each successful bidder for their relevant lot/s.
27. There were ten bidders that completed the Selection Questionnaire as follows;

Bidders	Score	Rank
Lovell Partnership Ltd	81	1
Bidder 2	74	2
Bidder 3	74	2
Bidder 4	72	4
Bidder 5	69	5
Bidder 6	59	6
Bidder 7	51	7
Bidder 8	43	8
Bidder 9	40	9
Bidder 10	37	10

28. The recommendation in the SQ was to shortlist the top four bidders to submit the initial ITT. Four were shortlisted in line with the tender documents. The shortlisted bidders were invited to submit their initial tender and they confirmed at the start of the tender process that they will submit a detailed tender. During the course of the tender period, a few of the potential bidders requested more time to enable them to submit a competitive tender. Additional time was offered to bidders to enable them to work on their tender proposal. Even though the tender period was extended to

allow all four shortlisted bidders to be able to submit, three of the potential bidders still decided to pull out of the tender process.

29. The council was still keen for all bidders to submit bids for this Lot and therefore engaged with all three to find out the reasons why they decided to withdraw from the tender process. Despite efforts by the council, they still withdrew from the process. The decision was then taken to proceed with the single bid and pursue the opportunity to negotiate a best value outcome with Lovell, by keeping up the competitive pressure through the process as Lovell were unaware they were the only bidder.

30. The three developers gave the following reasons for withdrawing from the tender process:

- One of the bidders confirmed that they were not convinced they could put together a competitive bid because they felt that they could not meet the requirements of the council.
- Another bidder cited two reasons for withdrawing. Firstly they 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.
- Secondly the same bidder had concerns about the viability of the scheme given the designs and associated construction costs and the level of affordable housing, without a subsidy for the social units.
- The third bidder were bidding for some of the other lots in the programme and felt that their resources would best be used in bidding for the lots they believed they could submit a competitive bid.

31. At the initial ITT stage Lovell were required to make a full tender submission (including a mark-up of the legal agreements). Lovell provided a tender to deliver a scheme based on providing the required minimum 35% affordable housing with a sliding scale up to about 50% as shown in the table below:

Table 3: Additional/reduction in Affordable Housing Numbers

Percentage Increase	Revised Land Bid	Rent	Intermediate
2.5%	£3,441,625		1
5.00%	£3,005,195	1	1
7.5%	£2,885,565	1	2
10.00%	£2,307,583	2	2
12.5%	£1,871,153	3	2

32. Negotiations were conducted with Lovell and they were asked to sign and return a meeting protocol prior to the first meeting. This is a standard process which allows the council to control the tender and evaluation process. Lovell was invited to further negotiations, resulting in an opportunity to submit a final ITT submission, incorporating all the aspects discussed/raised at the negotiation meetings.

33. Prior to the issue of the final ITT stage, Lovell submitted a proposal based on 50% affordable housing units consisting of 29% social and 21% intermediate units. This equated to 9 social, 10 intermediate and 27 private units with a residual land offer of £5,351,867. Further clarifications were had with Lovell before the final ITT was issued by the council to ensure that once the final ITT was issued, there would be no more unresolved issues. The council's affordable housing requirements changed from 50% affordable housing units consisting of 29% social and 21% intermediate to 50% social housing units consisting of 22 council units and 24 private units in accordance with the sliding scale as stated in the ITT documentation which equates to 50.3% and 49.7% based on habitable room basis with a reduced residual land value of £489,961.
34. Lovell were unaware they were the only bidder for this site during the clarification process and the council ensured that any issue that may have a negative impact on the development had been clarified. The final submission that now forms part of this report is the proposal that 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.
35. Further clarifications were sought from Lovell prior to the issue of the final ITT to provide 50% social units that can be retained by the council and the offer submitted was as follows: 22 social units and 24 private units with a land offer to the council of £489,961.
36. The final ITT was issued after series of clarifications and the outcome of the final ITT is as shown in paragraphs 55 and 58.
37. The evaluation of the initial and the final ITT was not only based on maximising the number of social housing units and the financial returns to the council but was also based on the quality criteria as shown in paragraph 46 in this report.
38. The price submission for the final ITT was evaluated by:
 - i. Housing Regeneration Manager
 - ii. Independent Property Consultant
 - iii. Divisional Accountant
39. The quality submission was evaluated by:
 - iv. Housing Regeneration Manager
 - v. Senior Planner and Planning Advisor
 - vi. Project Manager - Housing and Enabling
 - vii. Head of Regeneration - Capital Works and Development
40. Both panels were advised by our external solicitor, Trowers and Hamblins, and the council's in House Lawyer and the Interim Head of Procurement.
41. The recommendation of the evaluation panel was to award the contract to Lovell. However, on the 24 October 2018, Lovell indicated their intention to withdraw from the tender process. They cited the reason for their withdrawal was as a result of BREXIT that has caused uncertainty regarding the impact of the housing market especially the London market, and combined with the price point for the dwellings generally falling outside of the help to buy threshold.

42. As Lovell had been the only bidder left in the process, the council were permitted to consider negotiations with Lovell with the main terms of the Tender intact. Additional discussions were undertaken to explore whether the process could continue.

43. The agreed revised terms following such discussions are as follows:

- To allow additional social housing to be provided up to the 50% requirement the council will make a capital contribution of £1.4million to Lovell towards the construction of the affordable housing, to be paid 50% at commencement of works on site and the remaining 50% on achieving practical completion.
- A land payment of £489,961 to be made by Lovell to the council at legal completion of the sale of the first private sale unit (this amount is the same as was originally offered at final ITT stage).
- Revenue generated from the sales above the projected sales threshold of £14,500,000 (overage) will be divided equally between the council and Lovell (the projected sales threshold was £15,990,000 which means the overage threshold is now £1,490,000 less than what was previously submitted at the final ITT stage).

44. Lovell confirmed that the proposed accommodation schedule as stated in Table 2 above will not change as was required in the final ITT.

Tender evaluation

Quality Scoring (30%)

45. A maximum weighted score for the quality evaluation is 30%.

46. The response to each question was scored from 0 to 5 and weighted appropriately based in the following areas:

- Delivery Programme
- Design and Quality
- Risk, Project Methodology and resources
- Working In Partnership
- Social Value
- Legal Mark Up with less amendment to the development agreement

47. Tender evaluation scores were based on Lovell's written responses to the above criteria.

48. There were minimum score requirements for the following criteria which if any developer fails to obtain the minimum score the council reserved the right to disqualify a bidder from the tender process:

- Design and Quality (minimum score 3)
- Tenure blind development (minimum score 3)
- Construction method statement (minimum score 4)
- Work In Partnership (minimum score 3)
- Provision of apprenticeships, at least one for each £1m spent in accordance with the ITT

49. Lovell obtained at least minimum scores or above on all of these questions.
50. The Evaluation Panel have conducted a 'consensus scoring processes where moderation of 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. A consensus score has been agreed by the evaluators for each of the evaluation criteria.
51. The final ITT quality scores for Lovell were 20.94% out of 30%.

Financial Evaluation (70%)

52. The financial evaluation has been based on the following criteria:
- Confirmation that Lovell understands the development and design requirements of the council
 - The council's confidence in Lovell's financial assumptions
 - Evidence that Lovell has the ability to fund the project
 - Confidence in Lovell's sales value of the private units
53. Lovell's tender has been evaluated on the final maximum capital receipt they are able to provide against the council's final chosen percentage of affordable housing.
54. The response have been evaluated by assessing the level of financial return to the council after the total delivery costs of delivering the development sites have been discharged by the Developer and recognising the receipts due to the Developer arising from the market sale of the private residential elements.
55. The weighting of 50% for this criterion has been split in the following way with:
- i. 35% awarded to the Tenderer offering the highest capital receipt with lower offers receiving proportionately fewer marks, as demonstrated in Example A (in the Initial Tender example); and
 - ii. 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, as demonstrated in Example B (in the Initial Tender example).
 - iii. The total financial scores for Lovell are 65% out of 70%.

Questions	Minimum Score	Weighting	Lovell Score	Weighted %
Employers Requirements	NA	2	3	1.2
Funding	3	3	3	1.8
Land Offer	NA	50	5	50
Confidence in assumptions	3	5	4	4.0
Overage	3	5	5	5.0
Confidence in sales values	3	5	3	3.0

Total		70	23	65
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- iv. All results have been rounded up or down to one decimal point.
- v. The project team had regard to the inputs within the Tenderer's completed Viability Template and Market Commentary.
- vi. Since Lovell were the only bidder, their score for the land offer automatically provided the maximum score of 50%, and in order to substantiate whether their offer meets the best value criteria, further analysis was undertaken as stated below under best value consideration.

56. To confirm that Lovell's offer is value for money, officers compared it to the viability assessment of the Lot A3 done by BNP Paribas Real Estate in January 2017 which was based on a 43 unit scheme. To compare the value of the council units offered, officers assumed £300,000 (i.e. the typical build cost per unit) which is comparable to the costs provided by developers on the SRPP programme and the cost to deliver a social unit by the council's direct delivery team. The council would have obtained £5,500,000 capital receipt if the land was sold on the open market in its current state.

Table 4: Best Value Consideration

	Residual Land Value	Value of Council Units	Commercial Space	Council's pre. Cost	Council's Contribution	Total Value to Council
BNP(11 Social Units)	£1,059,882	£3,300,000	NA	NA	NA	£4,359,882
Lovell offer at 50% (22 social units) and commercial space	£ 489,961	£ 6,600,000	£ 208,217	£147,739	(£1,400,000)	£ 6,045,917

*Based on £300k per unit on recent comparative costs from developers on the SRPP Lot A programme and the costs to deliver a social unit by the council's Direct Delivery Team

57. Lovell's offer in comparison to the BNP Paribas Real Estate viability assessments outweighs BNP financial assessment of the project in terms of the number of affordable units and residual land value which is the capital receipts payable to the council. Lovell's offer provides 50% social rented units which are retained by the council and a land offer of £489,961 as opposed to the BNP appraisal that offers 26% social rented units and a residual land value of just over £1m. The land for the private units will be leased to the developer for a period of 250 years for a consideration that is not less than the best that the council can reasonably be obtained. It can be concluded that the council is obtaining best value from Lovell's offer in comparison to the independent evaluation by BNP that was carried out as part of the site appraisal.

58. Lovell Partnership total score for the final ITT once qualitative and financial scores are combined is as shown below: Lovell is as follows:

Quality	Financial	Total
20.94%	65%	84.94%

Plans for monitoring and management of the contract

59. The Council will implement the following reporting arrangements:

- a. The Head of Regeneration - Capital Works and Development and a Housing Regeneration Manager will be the authorised representatives for the Council.
- b. The Council's clerk of works is to be invited to attend any Development site meetings.
- c. A pre commencement notice template will be provided as part of the monitoring tool to ensure that all pre commencement notices are properly discharged prior to contract starting on site. The pre commencement notices include the following: Section 106 obligations, vacant possession, Development Notices and planning conditions to be discharged prior to start on site.
- d. A check list identifying deliverables against timelines will be used to manage the project on site.
- e. Although not a requirement under the Development Agreement it is intended that a project delivery board will be set up where monthly progress reports are presented and discussed and any corrective actions taken as appropriate.
- f. A progress report that will be presented to DCRB every six months.
- g. An annual progress report that will be presented to CCRB.

Identified risks for the new contract

60. **Table 5: Identified risks for the contract**

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 council is happy with the outcome.
2.	Failure to achieve planning consent or post-consent revisions results in delay to start on site	Medium	The DA gives the council the ability, through its independent certifier and planning consultant, to ensure that an acceptable planning application is made and that post consent revisions are reviewed and managed effectively.
3.	Termination of contract before completion if developer decides to mothball and the long stop date expires.	Low	Robust monthly meetings to be held to deal with delays and the contract terms will be reviewed on a regular basis. Monthly

Risk No.	Identified Risk	Likelihood	Risk Control
			site meetings will address issues around delays and corrective actions taken
4.	Reduction in number of council home completions by due dates due to programme delays and/or scheme viability	Low	The monthly site meetings will address issues around delays and corrective actions taken.
5.	Failure to achieve Southwark's design standard	Low	Effective quality control on site. Monthly site meetings to monitor quality, costs and time.
6.	Reputational damage due to poor community engagement during the delivery process.	Low	The council will facilitate community engagement and ensure that the developer complies to the council's charter principles.
7.	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
8.	Developer becomes insolvent or no longer has the capacity to deliver scheme	Low	Robust financial assessments undertaken including MINT score. A recent MINT score dated 22/05/2019 undertaken shows a very low risk of failure with a score of 95. The Developer's obligations are guaranteed by the parent company via the Parent Company Guarantee.
9.	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.

Other considerations

61. In agreeing the capital contribution of £1,400,000 to Lovell Partnership Ltd the council have also considered the risk of procurement challenge, particularly in respect of those bidders who withdrew from this lot. Whilst Native Land and Guildmore cited reasons not directly connected to viability in relation to withdrawal it can be inferred that it may have been a factor in their decision making, and one of the reasons given by Mullalley was that they could not make this lot viable

without any subsidy for the social units, (although as noted in paragraph 30 there were other reasons). It is thought that risk of challenge from the bidders is low, but if the council were to be challenged on its award, the implication is that the tender would have to be re-published.

62. The council considered retendering the scheme but it was decided against because of the urgency to deliver the project and also there was no guarantee that a more favourable outcome would have been achieved. The cost of re-procuring the scheme would have also presented challenges that could have been counter productive to achieving efficiencies gains. The deal with Lovell, having gone through a very rigorous competitive process, was deemed to have provided value for money in spite of the fact that the council now has to provide additional cost with the grant obtained from the GLA.

Community impact statement

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 345 Southwark Park Rd. All clients have been relocated and provided with alternative accommodation. Based on client's social, educational and physical needs those initially engaged have fallen within the category of protected characteristics.
64. Having completed the initial stage of the consultation, the next stage of engagement to fully meet obligations under the Equalities Act 2010 is to achieve the following objectives.
- Eliminate unlawful discrimination, harassment and victimisation
 - Advance equality of opportunity between different groups
 - Foster good relations between groups
65. The methodology will involve an in-depth equality data collection and analysis of the information gathered. The council will work with the appointed developer through the lifespan of the development proposal, planning process and development of consented scheme to mitigate any negative impact to known protected groups. It is anticipated robust data collection processes will incorporate households and businesses in the vicinity of the site being asked to complete a questionnaire, integrating equality monitoring data at key stages. Repeated periodically this will enable a comprehensive analysis of the impact from the initial to post completion and will inform future equality impact assessments and mitigation considerations.

Social Value considerations

66. 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.

67. 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. Lovell Partnership 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.
68. 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.
 - Lovell 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.

Economic considerations

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, Training, Education, Open Space, Transport, etc.
70. Development of the Developer's employment and training strategy will seek commitment 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 etc. This scheme will also provide nine apprenticeship places
72. 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.
73. The new social rent homes will be retained by the council and let on the same basis as existing council homes.

Environmental/Sustainability considerations

74. By investing in high quality and well designed buildings and estates the Council aim to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough. Lovell Partnership 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.
75. Delivery of this project will benefit the environment through contributing to Increasing the quality of the housing being delivered in the borough.
76. Negotiation of a robust agreement will establish and encourage consideration to be given to addressing environmental issues during design and construction.

Market considerations

77. 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.
78. The latest market indices (Right Move – February 2019) indicate that asking prices in Greater London have risen by 3.4% in the last month and have fallen by 2.1% in the year to February. In Southwark prices fell by 0.6% over the past month and fell by 3.6% in the year to February.
79. The average London property asking price in October was £614,182, with the average Southwark asking price being £621,130

Staffing implications

80. The Housing Regeneration Programme Manager responsible for the delivery of the overall programme, under the management of the Head of Regeneration, Capital works and Development, who will ensure 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

81. Section 123 of the Local Government Act 1972 permits the council to dispose of (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 the land was sold on the open market, the estimated value is £5,500,000. The contract has been awarded under a competitive tendering process and the net benefits, which are estimated to be £6,045,917 exceed the estimated open market land value. The overriding aim of this disposal was to develop new council homes for social rent, which will be achieved. Table 4 shows a breakdown of the net benefits to the council.

82. Following Lovell indicating an intention to withdraw from the procurement process due to the non-viability of the scheme and as they were the only bidder, it was then decided that the GLA and Housing Zone Grant be made available to subsidise the scheme costs. The estimated grant for the 22 social rental units is £1,760,000 which will be payable to the council from the GLA. The council has already secured the total grant allocation of £1,760,000, of which £1.4m will be passed to Lovell.
83. The agreed sales overage payment to the council will be 50% of sales revenue, less projected sales cost agreed at tender stage less Indexed Build Costs. This will be paid after the sale of the first private unit.
84. The financial offer for the land of £489,961 will be paid no later than the disposal of the first private unit is achieved and the council's preparatory costs of £147,739 will be paid by the developer as soon as the building lease is signed to commence the development. There is also provision in the Development Agreement that overage will still be payable if the developer decides to rent the private units based on an independent valuation of the properties. The £1,400,000 to be paid to Lovell will be paid along the same principle as the GLA payment schedule which is 50% at start on site and the balance 50% at practical completion.

85.

Table 6: Income Summary- Grant against Council's contribution

Income	Expenditure	Net Income
Grant £1,760,000	£1,400,000 Council's contribution	£360,000

Summary Benefits from the scheme:

Benefits	Value
Land Receipts	£489,961
Council's preparatory cost	£147,739
Value of social units	£6,600,000
Value of commercial units	£208,217
Sub Total	£7,445,917
Less council's contribution	£1,400,000
Total Benefit	£6,045,917

Summary of Best Value comparison

Total Benefit	Current land Value	Competitive benefit
£6,045,917	£5,500,000	£545,917

Investment implications

86. The scheme has been competitively tendered on the open market via the OJEU and the council undertook a 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 £489,961 as well as the payment to the council, a significant amount of the council's preparatory costs of £147,739 and 22 social rented units which equates

to 50.3% based on habitable room basis. Given the current uncertainties in the current market, this is a good offer and is recommended for acceptance.

87. The proposed development has been competitively tendered on the open market and the offer obtained from Lovell is based on an open market tender and evaluation.

88. The final submission from Lovell Partnerships Ltd that now forms part of this report 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 ensures that the proposed development mix was based on habitable room basis and not just by unit numbers as shown in Table 2 above

Legal implications

89. Please refer to legal concurrent in the report.

Consultation

90. 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.

91. Ward Councillors have been updated on progress so far and continuous update will continue during the life of the project.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M19/009)

92. This report recommends the award of the contract to deliver the SRPP scheme at 345 Southwark Park Road to Lovell Partnerships Limited. Once complete, the scheme will provide the council with 22 new council homes for social rent together with 580m² of commercial space. The new homes will contribute towards the council's ambitious plan to deliver 11,000 new homes by 2043. The council is contributing to the scheme through the disposal of land, valued at £5.5m and following tender negotiations, a monetary contribution of £1.4m. The benefits the council is due to obtain in return exceed this contribution, as set out in the financial implications section of the report. Further benefit may accrue through the possibility of overage from the sale of private homes.

Head of Procurement

93. The report recommends the award of the development agreement, followed by the grant of a 250 year lease at a peppercorn and a 250 year (less 1 day) leaseback to the council of the social rented units, also at a peppercorn.

94. An EU compliant tender process was undertaken, for which only one bid was submitted.

Director of Law and Democracy

95. The report recommends the award of the development agreement, followed by the grant of a 250 year lease at a peppercorn and a 250 year (less 1 day) leaseback to the council of the social rented units, also at a peppercorn.
96. Section 123 of the Local Government Act 1972 states that except with the consent of the Secretary of State, a council shall not dispose of land under that section, otherwise than by way of short tenancy, for a consideration less than the best that can reasonably be obtained.
97. The report confirms that the transactions proposed by this report represent best consideration (paragraph 56).
98. The grant of the lease of 250 years less one day to the council represents an acquisition by the Council of that interest. The council has powers under s120 (1) of the Local Government Act 1972 to acquire land for the purpose of any of its statutory functions or for the benefit, improvement or development of its area. In addition the council has powers under s9 of the Housing Act 1985 to acquire houses in order to provide housing accommodation.
99. The Council therefore has adequate legal powers to enter into the disposal and acquisition of land transactions envisaged by this report.
100. Normally decisions relating to the disposal and acquisition of land would be reserved to Cabinet pursuant to part 3C of the Council's constitution. However in January 2019 the Leader of the council agreed that the director of regeneration in consultation with the strategic director of housing and modernisation and the cabinet member for social regeneration, great estates and new council homes be given authority to acquire sites in furtherance of the delivery of the council's housing delivery programme. In May 2019 the Leader of the council agreed to delegate authority to dispose of this site to the Strategic Director of Place and Wellbeing.
101. The contract/development agreement being procured is subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR15). As noted in paragraphs 24-25 , 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 Lovell being identified as having submitted the most economically advantageous tender, and therefore recommended for award. Whilst this was the only tender submitted, it is officer's view (as noted in paragraphs 56-57) that this represents best value. As noted in paragraph 42, further negotiations were undertaken with Lovell, with the main terms of the tender remaining intact, resulting in agreement to make available some of the grant funding obtained from the GLA.
102. 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, relation, 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 63-65, setting out the consideration that has been given to equalities issues and to the consultation which has taken place (noted in paragraphs 90-91) which should be considered when approving the recommendations in this report. Contract standing order 2.3 requires that no steps should be taken to award a contract unless the expenditure has been approved. Paragraphs 81-85 confirm the financial implications of this award’.

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 Kevin A. Fenton Date 01/07/2019

Designation Professor 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
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None

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(Gateway 1 Procurement Strategy Approval Southwark Regeneration In Partnership Programme	Regeneration/ Place and Wellbeing	Prince Kamanda-0207- 5257480
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		

APPENDICES

No	Title
-	-

AUDIT TRAIL

Lead Officer	Kevin Fenton - Strategic Director, Place and Wellbeing	
Report Author	Prince Kamanda - Housing Regeneration Manager	
Version	Final	
Dated	18 May 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
Cabinet Member	Yes	No
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes

Cabinet	No	No
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)	Lovell Partnerships Ltd
Contract Total Value	£9,500,000
Contract Annual Value	NA
Contract Start Date	November 2019
Initial Term End Date	January 2020
No. of Remaining Contract extensions	Nil
Contract Review Date	N/A
Revised End Date	NA
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.