

Item No. N/a	Classification: Open	Date: 11 May 2021	Decision Taker: Cabinet Member for Council Housing
Report title:		Gateway 1 Procurement Strategy Approval Design Services for the Tustin Estate Low Rise Re-development Programme	
Ward(s) or groups affected:		Old Kent Road	
From:		Strategic Director for Housing and Modernisation	

RECOMMENDATIONS

That the Cabinet Member for Council Housing:

1. Approves the Gateway 1 strategy to use the LHC Architect Design Services Framework (ADS) for the Tustin Estate Low Rise Re-development Programme to secure the design services of a design team with supporting specialist consultants at an estimated contract value of £2.5m for a period of 13 months commencing in August 2021.
2. Note the use of a resident-led interview panel in the procurement process as detailed in paragraphs 38-39.

BACKGROUND INFORMATION

3. The Tustin Estate Low Rise Re-development programme is the outcome of a resident-led investment decision into low-rise homes on the Tustin Estate following a feasibility, master-planning and options appraisal process.
4. The decision to proceed with the re-development programme awaited the execution of a GLA compliant Tustin Estate Resident Ballot that resulted in a positive outcome. The decision to proceed with a Resident Ballot was taken by Cabinet on January 19 2021. In accordance with the 'Tustin Estate Landlord Offer Document' agreed by Cabinet, where the majority of residents voted 'yes' in favour of re-development, the council committed to delivering this option. If the majority of residents had voted 'no' against the re-development, the council would have committed to continuing to repair and maintain the low-rise homes in their current format as stated in the 'Tustin Estate Landlord Offer Document'.
5. The results of the Resident Ballot found that 86.6% of eligible voters voted in favour of re-development of the low-rise home on the estate, with 13.4% voting against the proposals. 64% of residents eligible to vote took part. 73% of those who live in the low rise homes took part and 53% of those who live in the towers took part.

6. The feasibility, master-planning and options appraisal programme for the Tustin Estate developed designs to RIBA Stage 1. This is equivalent to a re-development masterplan for the estate. These services were carried out under a separate contract under the Tustin Estate Improvement and Rebuild Programme between October 2019 and January 2021.
7. Architectural Design services are required to progress the masterplan from RIBA Stage 1 to RIBA Stage 3+ to secure a hybrid planning consent to enable works to start on site in September 2022. This is the next step in the delivery plan.
8. It is programmed that the council would be in contract with a delivery partner prior to gaining planning consent and as such the delivery partner would look to secure design services, in partnership with the council, for subsequent RIBA design stages and planning consents.

Summary of the business case/justification for the procurement

9. Planning permission is intended to be sought in summer 2022. This is an ambitious timescale and as such an expedient procurement process is required to secure services whilst also managing the need for high quality outcomes and best value including social value to ensure the council's commitment to a fairer future for all.
10. The Tustin low-rise re-development programme is a collaborative programme between housing department and regeneration team and as such the business case for the programme has been considered using the experience of both teams as has the procurement of design services.
11. The rationale for the procurement of specialist consultants, such as transport and Mechanical, Electric and Plumbing (MEP), alongside the design services has considered the advantages and disadvantages of the Council directly appointing specialist consultants services or requiring the successful design team to assemble the wider team and sub-contract. It has been decided to require specialist services to be procured through the design team due to the advantages of the design team being able to work with consultants they have prior sound experience of working with on similar schemes and therefore forming a cohesive and design project team with as well as the expedient nature of procuring these services via the design team. This will be reflected in the tendering process.
12. As the programme is a resident-led programme, a key component of the design services is an excellent record of engagement with residents and other local stakeholder such as businesses and educational stakeholders. In accordance with this resident-led approach, residents will be involved in the procurement process through 1) commenting and sharing feedback on the summary tender brief and final brief 2) sharing feedback from an architects' exhibition of three shortlisted architectural practices and 3)

holding a resident-led interview of the three shortlisted architectural practices.

13. A soft market exercise was conducted with interested architectural practices on the lot of the ADS Framework, Lot 3: Value Band 3 (£10m+) New Homes to ascertain in there was interest in tendering for this programme. The value band is based on the cost of the construction works as part of the programme and £10m+ is the highest value band on the New Homes Lot. The estimated value of the programme is £290m with the estimated value of works circa. £240m.

Market considerations

14. Delivery of the low-rise redevelopment programme is high value and estimated to be worth £290 million pounds. The architectural and design services represent and estimated £2.5 million. The programme requires expertise from those with significant experience of working in an inner city location alongside of co-designing with residents. Expertise is required in different housing typologies including houses, residential refurbishment, education, commercial spaces, parks and public spaces.
15. To manage and achieve the need for an expedient route to market, the need for high quality outcomes including best value and social value as well as the need for expertise from architects with the skills and experience is paramount.
16. There is a considerable range of architectural practices working in inner London with these skills and with this experience. This is also the case for specialist consultants working with the design team.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

17. Do nothing – This is not an option as the Council have made an investment decision to re-develop the Tustin Estate in accordance with the Resident Ballot and Tustin Estate Landlord Offer Document.
18. Deliver the service in-house – This would involve directly employing a high number of architects on permanent or fixed term contracts. This would be cost-prohibitive and is not realistic option for the Council.
19. Use other existing external frameworks – a range of organisations offer professional service frameworks for example the Greater London Authority – ADUP 2, PAGABO, BLOOM, Notting Hill Genesis Consultants Framework. The procurement strategy considered the use of external frameworks but the creation of the ADS framework sought to provide a framework that better met Southwark Council's objectives.

20. Council-led procurement for design services in accordance with Public Contracts Regulations 2015 – this service would result in an extended period for procuring design services estimated to be more than one year. This timeframe will not enable the works to start on site in September 2022. The start on site in September 2022 is a condition of eligibility for grant funding for replacement council homes from the Greater London Authority (GLA). Therefore the council would risk forfeiting a significant sum of grant value were we not to meet this start on site date.
21. Use of Architect Design Services (ADS) Framework – This framework has been established by London Housing Consortium (LHC) in partnership with Southwark Council to meet council objectives related to regeneration and building new homes. It is assumed that this framework will be used by the council for most architectural services unless there is a specific reason not to. Within this framework there a number of lots focused on differing areas of expertise and construction value. The appropriate lot for this programme is Lot 3: Value Band 3 (£10m+) New Homes. The figure of £10m+ relates to the construction value of the project. The New Homes description relates to the expertise of the architects admitted to this lot of the framework.

Proposed procurement route

22. Use of Architect Design Services (ADS) Framework, Lot 3: Value Band 3 (£10m+) New Homes. This framework has been designed for use for programmes such as the Tustin Estate low-rise re-development programme so that service delivery aligns with council objectives related to quality, as well as speed to market, resident participation in evaluation and to provide greater accessibility for micro-SME's.
23. This option offers a competitive process between the suppliers on Lot 3: Value Band 3 (£10m+) New Homes. The 12 practices in this lot have a turnover in excess of £1m indicating they have the necessary resource and capacity to delivery these services. The 12 practices will enter into a mini-competition to secure appointment for these services. A soft market exercise with the practices on this list provides practices with the opportunity to ascertain if they are interested in tendering. All 12 practices are then asked by LHC to formally express an interest in participating in the tendering process and those who express interest will receive the invitation to tender (ITT).
24. On receipt of the tender submissions, council officers will shortlist to three practices to go through to the next stage of evaluation based on the criteria outlined in the ITT. The highest scoring of the three shortlisted practices will be the preferred bidder. Further detail on the evaluation process can be found in paragraphs 32 to 42.

Identified risks for the procurement

Risk No	Identified Risk	Likelihood	Risk Control
1	Insufficient interest from framework providers in the tender which results in no bids.	Low	A soft market exercise has been undertaken to ascertain interest from prospective bidders. This exercise shows interest from the majority of the architects on the relevant lot.
2	Resident participation in the appointment of the shortlisted practices will not be fair or consistent.	Low	As a resident-led programme, residents are heavily involved in the delivery of this programme. Participants will complete a declaration of interest form and complete training in interviewing specific to the scope of the project. Resident involvement will provide a good method of further assessment to distinguish the services offered.
3	Does not achieve competitiveness and value for money.	Low	Successful appointment to the ADS Framework required a quality and cost evaluation as part of the evaluation process. Cost and quality will be tested once again as part of the tendering process for this specific project.
4	Bidders challenge procurement outcome	Low	Procurement will be conducted in accordance with procurement rules and the ADS framework terms.
5	Service provider becomes insolvent or no longer has the capacity to deliver scheme	Low	Successful appointment to the ADS framework required appropriate financial checks as part of the evaluation process. Additionally, the economic and financial standing of the successful bidder will be assessed as part of the tender evaluation process and prior to appointment.

Key decisions

25. This report deals with a key decision.

Policy implications

26. The procurement of design services for the Tustin Estate low-rise re-development programme is one of the critical steps in delivering the low-rise re-development programme voted for by a majority of eligible residents in the Resident Ballot.
27. The investment in the low-rise homes and wider estate aligns with the Borough Plan 2020-2022, the Great Estates programme, and the Housing Strategy to 2043 and will assist realise multiple cross-cutting themes alongside investment in housing.

Procurement project plan (Key decisions)

Activity	Complete by:
DCRB Review Gateway 1:	04/05/2021
CCRB Review Gateway 1:	06/05/2021
Brief relevant cabinet member (over £100k)	15/04/2021
Notification of forthcoming decision	11/05/2021
Approval of Gateway 1: Procurement strategy report	19/05/2021
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	27/05/2021
Completion of tender documentation	17/05/2021
Issue Invitation to Tender (ITT)	27/05/2021
Closing date for receipt of tender submission	23/06/2021
Completion of short-listing of applicants	28/06/2021
Completion of clarification meetings/presentations/evaluation interviews	13/07/2021
Completion of evaluation of tenders	13/07/2021
Forward Plan (if GW2 is key decision)	14/05/2021
DCRB Review Gateway 2: Contract award report	19/07/2021
CCRB Review Gateway 2: Contract award report	22/07/2021
Notification of forthcoming decision (if GW2 is key decision)	23/07/2021
Approval of Gateway 2: Contract Award Report	02/08/2021
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision (If GW2 is key decision) and end of voluntary standstill period.	10/08/2021
Debrief Notice	10/08/2021
Contract award	11/08/2021
Add to Contract Register	31/08/2021

Activity	Complete by:
Place award notice on Contracts Finder	31/08/2021
Contract start	12/08/2021
Initial Contract completion date	11/09/2022

TUPE/Pensions implications

28. There are no TUPE implications for the decision to enter into a contract with the successful design practice.
29. A TUPE situation may arise on completion of the contract where a prospective delivery partner sought to TUPE the design team over. Development of the tender documentation. Advice will be sought for managing this process if this situation arises.

Advertising the contract

30. Companies listed on the Lot 3: Value Band 3 (£10m+) New Homes of the ADS framework will be invited to tender via the council's electronic tender portal – ProContract. It is not necessary to advertise the contract as this was done when the framework was let in line with the Public Contract Regulations.

Evaluation

31. The assessment of invitations to tender will be based on a quality: cost ratio of 70:30. Social value sits within the assessment of quality and represents 15% of the total 70%. The application of a 15% social value percentage is based on experience by the social value gained via contracts during the Tustin Estate Improvement and Rebuild phase as well as through discussion with residents. Discussions with residents, have resulted in the ability to articulate relevant social value considerations that can be applied to the estate and wider Old Kent Road and will be established in the tender brief. Fee proposals will be evaluated on the standard differential model.
32. The relevant lot of the ADS Framework contains 12 architectural practices. As stated in paragraph 24, subsequent to a soft market exercise with all 12 practices, LHC will establish who has expressed an interest in tendering for these services. All practices who have expressed an interest will be asked to respond to an Invitation to Tender (ITT) summary brief.
33. Evaluation will take place across two steps. In the first step, council officers will evaluate the summary brief tender response submissions and shortlist the three top scoring submissions. In the second step, evaluation of the three shortlisted practices will be opened up to residents as well as representatives from the primary school on the estate, Pilgrims' Way Primary, and from the businesses on the estate.

34. The officer tender panel, comprising of representatives from housing department and regeneration team, will evaluate the quality of submissions and will score each question out of five as detailed in the following table.

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.

35. 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:

Quality (55%)

- a) Key observations about the feasibility study masterplan, the site and its surroundings.
- b) Evidence of high quality design and architectural principles in at least one previous completed comparable scheme
- c) Demonstrable relevant skills and experience in relation to public engagement
- d) Proposals for an innovative and inclusive engagement approach for this project

Social Value (15%)

- e) Evidence of practice and project team equality, diversity and inclusion
 - f) Demonstration of where social value will be added to the project including working with local and SME practices; offering training and apprenticeships to local people
36. All scores will undergo a consensus scoring process. Post tender clarification will be raised if required. The overall score for evaluation will be calculated by adding the scores for price and quality together. The three practices with the highest scoring submissions will be shortlisted for further assessment including resident and stakeholder involvement.
37. Resident and stakeholder involvement will comprise of two steps. The first a resident and stakeholder design exhibition and the second a resident-led interview panel with business and school representatives.
38. The resident and stakeholder design exhibition will provide an opportunity for shortlisted practices meet with the residents from across the estate in a 'drop in' manner reflective on consultation technique to be used as part of their services. They will be asked to showcase their work and their approach. Residents and business and school based representatives, will be invited to share standardised feedback on the three practices with the Council. This element will not be subject to assessment but will inform the interview stage through the use of questions that will ask them to reflect on their proposed approach in light of the engagement with residents with a view to understanding their approach to listening and flexibility.
39. A resident-led interview panel will comprise of a majority of resident members, alongside a business representative, a school representative, the Independent Tenant and Homeowners Advisor and a minimum of two council officers. This step will be quality assessed and scoring will be based on a consensus opinion using a quality scoring method for responses to each question posed to the three practices. The same quality scoring methodology applied by officers using the table above will be applied to assessing practices response to each question. This quality scoring will be added the scoring from the shortlisting exercise to ascertain the highest scorer through the shortlisting step and the resident-led step.
40. Tender evaluation guidelines and criteria will be included in the tender documentation.

Community impact statement

41. Procurement of professional services applies the Fairer Future Procurement Framework commitments to ensure Fairer Future Promises and the use of quality, cost and social value (where applicable) in tendering documents and evaluation.

42. The delivery of the programme is resident led and as described above the evaluation process will allow for resident participation not only in the evolution of the designs but also in the selection of who they work with to achieve the joint vision for the estate.
43. The Council launched Southwark Stands Together (SST), a borough wide initiative in response to the injustice and racism experienced by Black, Asian and minority ethnic communities and to the inequalities exposed by COVID-19 pandemic. This programme will align to the principles set out under SST and incorporate representation, inclusion and diversity throughout.
44. Section 149 of the Equality Act, lays out the Public Sector Equality Duty (PSED) which requires public bodies to consider all individuals when carrying out their day to day work – in shaping policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities. The council's Approach to Equality ("the approach") commits the council to ensuring that equality is an integral part of our day to day business.
45. The programme is informed by the Equalities and Health Impact Assessment (December 2020) and will be delivered in accordance with the action plan in this document.

Social Value considerations

46. 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 wellbeing 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.
47. Further details of how social value will be incorporated in the tender are set out in the following paragraphs as well as the summary tender brief. The brief will encourage bidders to work with small, female led and black led practices.

Economic considerations

48. 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.
49. Submission will be evaluated on a range of social value measures including how they support more women and BME professionals and residents into opportunities in the professional technical services industry.

Social considerations

50. The services required demonstration of social value commitment and submissions will be evaluated for these commitments.
51. The contract will be required to align with the social value strategy for the low rise-development programme that is being developed with estate resident groups including the Tustin Community Association and Resident Project Group.

Environmental/Sustainability considerations

52. Sustainability and environmental principles and policies will be at the heart of design development and will build on existing work undertaken in the sustainability strategy (January 2021) for the re-development option. This strategy provides recommendations that need to be tested and worked into the designs as appropriate.
53. Designs will meet relevant policy in the London Plan as well as GLA Guidance and the Council's own Southwark Plan and supporting and emerging guidance.
54. The programme will align with the Council's Climate Emergency Strategy and forthcoming action plan.

Plans for the monitoring and management of the contract

55. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.
56. Staff will manage and monitor the delivery of the contract against the tender brief, re-development programme and in consultation with stakeholders (resident, business and school based). This will be monitored on a monthly basis via client meetings and with the Regeneration South Team. Existing staff time will be used to monitor the contract and Annual Performance Reports will be presented to DCRB and CCRB as required in line with Contract Standing Orders.

Staffing/procurement implications

57. Other than as set out in paragraph 57 there will be no additional staffing implications.

Financial implications

58. The estimated contract value for design services is £2.5m. These costs will be incurred across 2021-22 and 2022-23. Fees for the services are subject to Cabinet approval on 13 July 2021. Appointment of the architectural design team will be in late July subject to Cabinet approval of the scheme, which will form part of the council's Housing Investment Programme. Once approved, a project code will be established for the scheme. The schedule of fees will be established within the contract agreement with the appointed design team.

Investment implications

59. N/a

Legal implications

60. Please see concurrent from the Director of Law and Governance.

Consultation

61. Officers from Regeneration and Housing departments were consulted in the development of the proposed procurement strategy.
62. Consultation on the design services tender has taken place with Tustin resident groups. Consultation will continue throughout the tendering process and culminate in a resident led panel selecting the preferred practice.

Other implications or issues

63. N/a

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

64. This report seeks the approval of the Cabinet Member for Council Housing for the procurement strategy for design services of a design team with supporting specialist consultants. For the Tustin Low Rise Re-development Programme but using the LHC Architect Design Services Framework (ADS). The estimated contract value for the contract is £2.5m for a period of 13 months, due to commence in August 2021.
65. Recommendation two of the report also asks that the Cabinet Member for Council Housing notes the use of a resident-led interview panel in the procurement process as detailed in paragraphs 38-39 of the report.
66. The report sets out the options for procurement in paragraphs 17-21, with the recommended procurement strategy detailed in paragraphs 22-24.

67. The evaluation criteria for the mini-competition under Lot 3 Value Band 3 (£10m+) New Homes lot of the LHC Architect Design Services Framework is set out in paragraphs 31-40 of the report, with social value elements, including the payment of London Living Wage detailed in paragraphs 46-54.
68. Plans for the management and monitoring of the contract are set out in paragraphs 55-56.

Director of Law and Governance

69. This report seeks the approval of the Cabinet Member for Council Housing to the procurement strategy to use the LHC Architect Design Services Framework (ADS) the Tustin Estate Low Rise Re-development Programme to secure the design services with supporting specialist consultants for the estimated price and duration set out in paragraph 1 of this report.
70. This report also recommends that the Cabinet Member for Council Housing notes the use of a resident-led interview panel in the procurement process as detailed in paragraphs 38 and 39 of this report.
71. The council's Contract Standing Orders (CSO) 5.1.2 provides that any procurement involving the establishment of a council-led framework agreement or use of a third party's framework agreement is subject to usual Gateway 1 procedures. This report therefore seeks approval to the use of the ADS Framework.
72. As the ADS Framework has already been tendered in accordance with the Public Procurement Regulations 2015 (PCR 2015), the council is not required to undertake a separate PCR 2015 tendering exercise. The procurement strategy proposes the carrying out of a mini-tendering exercise between suppliers who are parties to the ADS Framework under Lot 3, Value Band 3 (£10m+), as is set out in the report, and which should enable a best value solution to be agreed with a preferred provider.
73. CSO 6.4.3(b) reserves the decision to the relevant individual decision maker to authorise this proposed procurement process, after consideration by the Corporate Contracts Review Board (CCRB) of the report.
74. Paragraphs 31 to 40 outlines how the tender will be evaluated and includes the social value element.
75. Paragraphs 42 to 45 of this report demonstrate how the council has had due regard to Public Sector Equality Duty for this procurement and the decision maker should satisfy him/herself that this duty has been complied with when considering these recommendations.

76. Paragraphs 61 and 62 of this report set out the consultation that has taken place. The council must conscientiously take into account the outcome of consultation when taking a decision on the recommendations in this report.

Strategic Director of Finance and Governance (H&M 21/010)

77. This report seeks the Cabinet Member for Council Housing’s approval for the procurement strategy to appoint a design team with supporting specialist consultants for the Tustin Estate Low Rise Re-development Programme. There are no financial implications arising from the report’s recommendations at this stage, however, the estimated cost of the contract is £2.5m, and as outlined in the report, the contract award is subject to Cabinet the approval of the project and its associated budget at their meeting on 13 July 2021. Should the procurement proceed to contract award, the cost of services provided will be met from resources supporting the council’s Housing Investment Programme.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Equalities and Health Impact Assessment (December 2020)	Regeneration South	Sophie Hall-Thompson 07849093070
Link: https://www.southwark.gov.uk/housing/southwark-estates/tustin-estate?chapter=9		
Sustainability Strategy (January 2021)	Regeneration South	Sophie Hall-Thompson 07849093070
Link: https://www.southwark.gov.uk/housing/southwark-estates/tustin-estate?chapter=9		
Tustin Estate Landlord Offer Document (February 2021)	Regeneration South	Sophie Hall-Thompson 07849093070
Link: https://www.southwark.gov.uk/housing/southwark-estates/tustin-estate?chapter=11		

APPENDICES

No	Title
None	

AUDIT TRAIL

Lead Officer	Michael Scorer, Strategic Director for Housing and Modernisation	
Report Author	Sophie Hall-Thompson, Regeneration Manager	
Version	Final	
Dated	11 May 2021	
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 Governance	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		11 May 2021