

<b>Item No.</b> 15.	<b>Classification:</b> Open	<b>Date:</b> 13 July 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 1 - Procurement Strategy Approval Procurement of a Delivery Partner (Developer Contractor) for the Tustin Estate Low Rise Redevelopment Programme	
<b>Ward(s) or groups affected:</b>		Old Kent Road	
<b>Cabinet Member:</b>		Councillor Stephanie Cryan, Council Homes and Homelessness	

## **FOREWORD – COUNCILLOR STEPHANIE CRYAN, CABINET MEMBER FOR COUNCIL HOMES AND HOMELESSNESS**

Earlier this year we held a ballot on the Tustin Estate, which asked residents to vote on a range of options for the redevelopment of the estate. The result of the ballot gave a resounding yes vote for the redevelopment of the estate, which will include building additional new council homes, Over 55's housing. a new park at the centre of the school. A new Pilgrim's Way Primary School and new retail and business spaces.

Given the current financial position of the council, this decision will have an impact on the housing investment programme for a number of years and the future investment in our housing stock. However, it is the right decision to make at this time as it demonstrates that the council has listened to the views of local residents and has responded in a very positive way. It is a resident led decision and allows them to have a key say in the future of their estate.

The proposals will transform the Tustin Estate and will improve the quality of housing, public realm and amenity space for all of its residents and will play a key role in our commitment to build 11,000 new council homes by 2043.

This report sets out key changes to the rehousing policy for council tenants and leaseholders, which build on the experience of other projects. I would like to put on record my thanks to the members of the Tustin Community Association for the work they have done and continue to do for the future of the Tustin Estate.

## **RECOMMENDATIONS**

That Cabinet:

1. Approves the procurement strategy outlined in this report for a two-stage tender process for the procurement of a delivery partner for the Tustin Estate Redevelopment programme using the Pagabo framework.

2. Notes that the award of the Pre-Construction Services Agreement (PCSA) of anticipated contract value of £1.5m will be approved as set out in line with the Contract Standing Orders and in consultation with the Cabinet Member for Council Homes and Homelessness for an estimated period of 10 months commencing in November 2021.
3. Note that, subject to successful PCSA programme of design development to financial close including planning approval, the council would have the option to award the Development Agreement to the preferred delivery partner for the Tustin Estate Low Rise Redevelopment Programme (comprising of residential, commercial, education and public realm works) for an anticipated period of 6 years commencing in Summer 2022 subject to a future approval via a Gateway 2 report to Cabinet in summer 2022.
4. Note the council has entered into an access agreement with Pagabo to access their National Framework Agreement for Developer Led Schemes
5. Note the use of a resident-led interview panel in the PCSA and Development Agreement procurement process as detailed in paragraph 61.

## **BACKGROUND INFORMATION**

6. The Tustin Estate Low Rise Redevelopment 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 undertaken between 2019 and 2021.
7. The decision to proceed with the Low Rise Redevelopment Programme followed the execution of a GLA-compliant Tustin Estate resident ballot that had a positive outcome. The decision to proceed with a resident ballot was taken by Cabinet on 19 January 2021. In accordance with the 'Tustin Estate Landlord Offer Document' agreed by Cabinet, the Council committed to delivering this option, if the majority of residents voted 'yes' in favour of redevelopment. If the majority of residents voted 'no' and against the redevelopment, the Council would continue to repair and maintain the low-rise homes in their current format.
8. The results of the resident ballot found that 86.6% of eligible voters voted in favour of redevelopment of the low-rise homes 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 high rise towers took part. The outcome of the Residents Ballot is due to be ratified by Cabinet in July 2021.
9. The feasibility, master-planning and options appraisal programme for the Tustin Estate developed designs to RIBA Stage 1 and resulted in a masterplan for the Tustin Estate which meets policy objectives in the wider Area Action Plan for the Old Kent Road.
10. The programme comprises of:

- The demolition of 249 homes (200 council rented and 49 leasehold) at Bowness House, Heversham House, Hillbeck Close, Kentmere House & Ullswater
  - The build of an estimated 689 homes comprised of
    - 200 replacement council rented homes
    - 220 additional council homes made up of council rented and key worker rented
    - 18 refurbished council rented homes in Manor Grove
    - 49 council shared equity homes
    - 220 private for sale homes
  - The retention of the houses in Manor Grove
  - The development of a new park in the centre of the estate
  - Demolition and redevelopment of Pilgrims' Way School
  - The build of new retail and business spaces on the Old Kent Road and Ilderton Road
11. This proposal is in accordance with current Council and GLA policies. Officers will continue discussions with the GLA in order to seek further funding for the proposals and will determine the level and form of key worker housing in consultation with local residents and ward councillors. The financing of the project will continue to be reviewed as the contractor procurement progresses and the design proposals are further developed in order to reduce the impact on council resources. The key worker accommodation, subject to further consideration, may be taken forward on a temporary accommodation basis.
12. The redevelopment programme has been established in line with a grant agreement with the Greater London Authority (GLA) for £20m as part of the Building Council Homes for Londoners programme.
13. The next steps in the programme are to secure the services and works to deliver the low rise redevelopment and realise the masterplan that residents voted for in the March 2021 resident ballot.
14. Architectural design services (ADS) are currently being procured from the ADS framework 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 by September 2022. A hybrid planning application is programmed to be submitted in Winter 2021/22 with a view to securing consent in summer 2022.
15. The council has also procured external project management services to support the delivery of the programme milestones identified above to achieve a start on site by September 2022.

### **Summary of the business case/justification for the procurement**

16. 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

the council's existing estates, purchasing some directly from developers, and developing land that the council owns.

17. As detailed in the background information a resident ballot has confirmed the preferred approach to investment into existing council housing stock on the Tustin Estate, as redevelopment as described in paragraph 10. Redevelopment will result in the delivery of high quality replacement council homes build to up to date standards, as well as the delivery of additional new council homes, intermediate and private homes for sale.
18. The delivery programme for this option has been developed in line with securing grant agreement from the GLA as part of their Building Council Homes for Londoners Programme that is due to expire in 2022. This programme, unlike its successor, provides grant for the replacement of existing council homes with new build council homes. As the Tustin Low Rise Redevelopment Programme includes the replacement of 200 existing council homes with new council homes, Southwark has been able to enter into a grant agreement of £20 million for these replacement homes. This grant agreement is vital to supplement other funding streams for the programme and to minimise the costs under the Housing Revenue Account.
19. The grant agreement requires that works on site commence in September 2022 and that all works are carried out via a single construction contract. If the programme does not meet the terms of the grant agreement the Council risk losing the £20m grant.
20. The council is committed to delivering the redevelopment programme in line with the resident ballot (and Landlord Offer Document on which residents voted) and the grant agreement with the GLA. As such the procurement strategy for the Tustin Low Rise Redevelopment Programme seeks to secure all services and works to meet a start on-site in September 2022.
21. It is therefore necessary to ensure the procurement strategy is expedient and flexible whilst also delivering against council strategic objectives such as best value in terms of quality and price, social value and timely delivery.
22. A key component of the procurement strategy for the delivery partner is securing involvement in the design process ultimately enabling informed design development on matters including but not limited to construction risk, cost plans, construction programmes, method of construction and packing of works, plus financing and sales risk.
23. Once the design team services are secured, design development will take place as stated in paragraph 14 from RIBA stage 1 to RIBA stage 3. It is anticipated design development will result in the submission of a planning application in winter 2021-22 as such the need to enter a PCSA ahead of winter 2021-22 is strongly supported to improve the design and deliverability of the programme.

24. In addition to the considerations identified above, there is a need to consider a route to market based on providing a flexible delivery that de-risks the delivery programme, provides the appropriate legal structure and aligns with the council's financial constraints. Given the large number of private homes for sale in the redevelopment programme market consideration includes delivery, sales and marketing experience of a prospective delivery partner. To manage risk and the council's financial constraints, it is necessary to explore options for an agreement with a prospective partner where there can be a shared approach to risk and finance.

### **Market considerations**

25. The Tustin Low Rise Redevelopment Programme comprises of a mix of land use, housing typologies and tenures and other complexities including connection to the South East London Combined Heat and Power Station (SELCHP).
26. Attracting a suitable delivery partner and obtaining value for money is a key market consideration. Careful design and construction consideration is required to be undertaken in liaison with the Greater London Authority (GLA), Transport for London (TfL), and residents and stakeholders of the estate. It is necessary for an experienced supplier to deliver these works.
27. The construction industry appears to be quite buoyant at the moment and there is a high demand for construction services. The size, capacity and experience of companies to undertake a mixed use scheme, in an inner city location, with an existing population is a key consideration tested via a soft marketing exercise.
28. Preliminary soft market testing suggests that there are a number of potential frameworks that can be used to secure the services of an experienced supplier.

### **KEY ISSUES FOR CONSIDERATION**

#### **Options for procurement route including procurement approach**

- a) Do nothing – This is not an option as the council has a commitment to deliver more council homes and have made an investment decision to redevelop the Tustin Estate in accordance with the resident ballot and Tustin Estate Landlord Offer Document.
- b) Deliver the service in-house – The council does not have this capacity. This would be cost-prohibitive and not meeting with committed programme timeframes. It is not realistic option for the council.
- c) Use of an existing third party frameworks (contractor) – There are a number of contractor frameworks available including ones from Notting Hill Genesis and Hyde. The council has used these frameworks for a number of projects however the specifics of the Tustin programme

require a delivery partner that provides services a contractor does not provide such as assisting with balancing risk and profit. Contractor-only frameworks are not considered appropriate for the Tustin regeneration.

- d) Use of existing third party framework (developer) – a range of frameworks exist including the London Housing Consortium (LHC) Framework, Pagabo, Scape, London Developer Panel 2. The use of a developer framework provides scope to find a delivery partner who can add value through significant experience of marketing and sales of open market homes as well as support additional workstreams that drive value, balance risk and support cashflow.
  - e) Council-led procurement for a delivery partner in accordance with Public Contracts Regulations 2015 – 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 and risk significant grant funding.
29. The assessment of the framework options, option d suggests that the majority of the key providers in the market are available to the council via this route.

### **Proposed procurement route**

30. Experience of entering into development agreements on other programmes indicates that negotiations take place over an extended period of time. Given the need to engage a delivery partner ahead of submitting planning as outlined in paragraphs 22 to 243 a traditional procurement whereby the design and construction are separated, is not compatible with the programme timeframes. This route would not result in the procurement of a delivery partner ahead of submitting a planning application and therefore would not benefit from the input of the delivery partner to the scheme.
31. Therefore a two-stage contracting process is proposed enabling the council to first enter into a Pre-Construction Services Agreement (PCSA) to enable engagement with a delivery partner ahead of submitting planning permission. Details of stage 1 services are outlined in paragraph 48 of this report. Stage 2 includes the delivery of the works, and is subject to a Development Agreement in a form consistent with the requirements of the Pagabo framework.
32. The appointed delivery partner would be responsible for taking forward all aspects of the redevelopment programme, set out in paragraph 10, under the PCSA and if successful the Development Agreement including the construction of Council homes and homes for sale. Under the Development Agreement, the delivery partner can take on the responsibility for financing, sales and marketing of the homes for sale.

33. During the PCSA period, the terms of the standard Pagabo Development Agreement will be developed further by the Council, enabling a period of detailed contract finalisation in summer 2022.
34. Taking the above into consideration, using an existing framework will be the fastest route for procurement as it has already undergone a compliant competitive tender process resulting in suppliers being placed on the framework, thus enabling the council to call off from the framework.
35. Due to the specifics of the Tustin Estate Low Rise Redevelopment Programme as outlined in the summary of the business case, it is considered the use of a developer framework and not a contractor framework best meets the objectives of the delivery programme as a developer framework will provide access to developers whose services go further than a contractor services and include support in the delivery, marketing and sales of open market homes, to drive value through the design process, and to share in risk and finance.
36. The developer frameworks have been considered below. The Pagabo framework is considered the most appropriate to meet the needs of the Tustin Estate Low Rise Redevelopment Programme as it meets with the timeframes for the redevelopment programme, offers the most flexibility in terms of legal and contract structure, it supports Southwark's commitment to social value and it offers the most structured partner support for both procurement and post-contract capturing of data.

Framework	Advantage	Disadvantage
Pagabo	<ul style="list-style-type: none"> <li>• A flexible approach to explore a range of developer partner solutions</li> <li>• Best value can be captured through a competitive processes and a range of evaluations</li> <li>• Use a social value calculator, to capture social value throughout the project.</li> <li>• Offer end to end support from business case through to contractor KPI management.</li> </ul>	Fees for use (see paragraph 43)
London Developer Panel 2	<ul style="list-style-type: none"> <li>• Large range of scope of works available that covers all</li> </ul>	<ul style="list-style-type: none"> <li>• Development Agreement has to be in the GLA format.</li> </ul>

Framework	Advantage	Disadvantage
	<p>workstreams Southwark would require.</p> <ul style="list-style-type: none"> <li>• Best value can be captured through a competitive process.</li> <li>• No fee for use.</li> </ul>	<ul style="list-style-type: none"> <li>• The supplies list includes 29 developers and sifting would be difficult and time consuming.</li> <li>• No social value element.</li> <li>• No support offered post appointment</li> </ul>
Scape	<ul style="list-style-type: none"> <li>• Offer peer support throughout the project.</li> <li>• No fee for use.</li> </ul>	<ul style="list-style-type: none"> <li>• Very limited set of works for example, sales and marketing support.</li> <li>• Single source solution, no opportunity for competition</li> <li>• Peer support is not as structured as other offers</li> </ul>
LHC	<ul style="list-style-type: none"> <li>• Has a number of specialist frameworks available</li> </ul>	The frameworks are specific to having a pre-determined outcomes for example use of off-site manufacturing.

37. The relevant lot of the Pagabo developer frameworks is London Lot 3c, contracts of £40+m, residential consists of the following core and reserve suppliers:

**Core**

HBD  
GRAHAM cityheart  
Morgan Sindall Consortium  
Sir Robert McAlpine Capital Ventures  
VINCI UK Developments  
Willmott Dixon

**Reserve**

LinkCity  
Engie Regeneration  
KajimaGen8

38. An expression of interest exercise with all suppliers, core and reserve as identified above, will confirm the capacity and interest of the core suppliers in the first instance. Where a core supplier does not have the interest or

capacity to deliver, suppliers from the reserve list have the opportunity to bid to ensure six suppliers are invited to tender.

39. All these suppliers are of significant size and scale, and the majority of them have experience of working on housing projects in London.
40. Upon receipt of tendering document, an assessment report, setting out the justification for shortlisting, will be prepared and reviewed by a panel (consisting of the Project Manager, a representative from the Project Management Team, a resident representative, the Head of Regeneration and Director of New Homes Team) in order to confirm a minimum of three shortlisted. Where clarifications are required, the three shortlisted bidders will be invited to interview. The interview is for clarification purposes only and will not form part of the evaluation scoring.
41. The template Development Agreement is stipulated by the Pagabo framework and the construction contract to be let by the delivery partner will be in the form of a JCT 2016 Design Build contract with the council's standard amendments; a performance bond and Parent Company Guarantee will also be required from the main contractor with step-in rights in the benefit of the council.
42. To use the Pagabo developer framework, the council is required to enter into an access agreement with Pagabo. This has now been signed by both parties and full access to the developer-led schemes is now confirmed.
43. The fees for using the Pagabo are 1% of Pre-Construction Services Agreement (Professional fees) up to Stage 4 design and upon successfully entering into a Development Agreement a flat fee of £150,000 with this fee absorbed into the funding model developed in the PCSA. .
44. A two-stage tender process is proposed. The Pagabo framework supports two-stage tendering within the framework agreement and a competitive process for the PCSA and Development Agreement.
45. At the PCSA tender stage there will be a quality submission and a fee for undertaking PCSA services. During the PCSA tenderers will submit costs. At this stage the council appointed quantity surveyor will ensure the costs reflect the current market rates and provide value for money.
46. During the PCSA stage, the successful supplier will identify overheads and profits, preliminaries and costs for the main sub-contractor packages and estimated prices for the overall scheme based on benchmarked rates. Construction costs will be provided using three quotes from their supply chain for the majority of construction packages to secure 85% of cost along with detailed negotiation of the Development Agreement including financing options and costs. The council appointed quantity surveyor will again ensure the costs reflect the current market rates and provide value for money. The council will have flexibility to negotiate all aspects of the scheme through the

Development Agreement negotiation process during the PCSA and ahead of financial close and cabinet approval in summer 2022.

47. Once assessed, the PCSA will be awarded following approval of a Gateway 2 report as noted in paragraph 2.
48. The successful developer would be required to undertake various tasks in relation to the pre-construction services, design and planning of the construction works. These include the below. The details of the PCSA would be specified in contract documents:
  - Contribute to the design development and ensure its deliverability
  - 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
  - Develop the cost plan and construction programme in consultation with the Council
  - Develop the method of construction in consultation with the Council
  - 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.
49. Whilst it is usually the case that the second stage award (the Development Agreement) is made to the successful tenderer for the pre-construction services, it is not mandatory to do so and the council reserves the right not to appoint following tender of all sub-contractor packages should the fixed price for the main works contract not be acceptable or provide value for money and instead to commence a new tender process.
50. If the council approves the main works price, approval to proceed with contract award will be sought through a second Gateway 2 report. Due to the high value of the contract this decision will be taken by Cabinet.

**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 will be undertaken to ascertain interest from prospective bidders. The Pagabo framework features a reserve list of supplies should the six suppliers on the framework not

Risk No	Identified Risk	Likelihood	Risk Control
			express interest.
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	Challenges to the Procurement process.	Low	The use of a framework means that suppliers have met certain procurement conditions to date and there is a consistency applied by Pagabo to the tendering process. This will reduce the risk of challenge.
4	Does not achieve competitiveness and value for money.	Low	The use of a framework ensures a competitive approach to securing a delivery partner at both stages, PCSA and Development Agreement.
5	Service provider 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.
6	Mobilisation/construction delayed due to unforeseen site issues , covid working, the impact of brexit or cost pressures on building materials.	Medium	Robust financial assessments will be undertaken including independent financial and credit checks of businesses prior to award. To date Covid-19 has been managed to allow construction work to continue during the pandemic.
7	Use of a 2 stage process leaves the council with limited options for appointment to the development agreement due to the resource and time spent at the PCSA stage.	Medium	The Council reserves the right not to award the development agreement after the PCSA stage, and would not do so unless best value can be achieved.

## Key decisions

51. This report deals with a key decision.

## Policy implications

52. The procurement of design services for the Tustin Estate Low Rise Redevelopment Programme is one of the critical steps in delivering the redevelopment voted for by a majority of eligible residents in the Resident Ballot.

53. The investment in the low-rise homes and wider estate aligns with the Borough Plan 2000-2022, 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:
Enter Gateway 1 decision on the Forward Plan	20/05/2021
DCRB Review Gateway 1	21/06/2021
CCRB Review Gateway 1	24/06/2021
Brief relevant cabinet member (over £100k)	09/06/2021
Notification of forthcoming decision - Cabinet	05/07/2021
Approval of Gateway 1: Procurement strategy report	13/07/2021
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	21/07/2021
Completion of tender documentation	21/08/2021
Publication of Opportunity on Contracts Finder	22/08/2021
Closing date for receipt of expressions of interest	06/07/2021
Invitation to tender	22/07/2021
Closing date for return of tenders	01/09/2021
Completion of any clarification meetings/presentations/evaluation interviews	10/09/2021
Completion of evaluation of tenders	22/09/2021
Forward Plan (if Strategic Procurement) Gateway 2	13/08/2021
DCRB Review Gateway 2 (PCSA)	04/10/2021
CCRB Review Gateway 2 (PCSA)	07/10/2021
Notification of forthcoming decision	13/10/2021
Approval of Gateway 2: Contract Award Report	21/10/2021

<b>Activity</b>	<b>Complete by:</b>
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	29/10/2021
Debrief Notice and Standstill Period (if applicable)	12/11/2021
Contract award	15/11/2021
Add to Contract Register	30/11/2021
Place award notice on Contracts Finder	30/11/2021
Contract start (PCSA)	16/11/2021
Initial contract completion date (PCSA)	31/05/2022
Contract completion date – (if extension(s) exercised)	31/03/2023
Initial contract completion date (Development Agreement)	01/06/2022
GW2 Development Agreement Cabinet Approval	30/06/2022
Contract start (Development Agreement)	01/09/2022
Initial contract completion date (Development Agreement)	31/08/2028

### **TUPE/Pensions implications**

54. 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 Pagabo framework.

### **Development of the tender documentation**

55. 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 contracting 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.
56. Consultancy services, project management, have been secured 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.
57. The consultancy team and Southwark project management team, alongside services offered by Pagabo will ensure a comprehensive set of tender documents are prepared.
58. Suppliers 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**

59. Companies listed on the Pagabo framework will be invited to tender through the Pagabo Framework.

### **Evaluation**

60. The assessment of invitations to tender will be based on a quality cost ratio of 50:50. Social value sits within the assessment of quality and comprises 10% of the total score.
61. Resident-led evaluation of the suppliers will also fall under the quality assessment. A resident representative will form part of the evaluation panel and qualitative questions within the ITT will consider resident engagement and needs. The contract will also set out the future relationship between the supplier and residents in order to ensure appropriate ongoing resident engagement.
62. The application of a 10% social value percentage to quality scoring is based on experience of 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.
63. Quality (50%) shall be evaluated by programme project group (comprising of the Project Manager, the Project Management team (Pulse), the Head of Regeneration South) and the Independent Tenant and Homeowner Advisor.
64. Price (50%) shall be evaluated by the programme project group and a 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.
65. The use of the Pagabo 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.
66. The tender panel(s) will evaluate the quality of submissions and will score each question out of 5 on the basis of council standards. An example is detailed in the following table. Bidders scoring 1 point or less on any method statement question may 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.

67. Tenderers will be required to provide information to support their quality submission. 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
  - Risk Management
  - Contract management and delivery
  - Experience in delivery complex housing schemes, qualifications and track record of the team proposed by the contractor.
68. Tender evaluation guidelines and criteria will be included in the tender documentation for the PCSA and Development Agreement.
69. All scores will undergo a consensus scoring process. Post tender clarification will be raised if required.
70. The evaluation of tenders will be led by the Project Management Team in collaboration with Pagabo. The additional resourcing provided by these organisations will provide an effective and timely evaluation period.

## **Community impact statement**

71. 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.
72. 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.
73. 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.
74. 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.
75. 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**

76. 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.
77. Details of how social value will be incorporated will be specified in the tender. Social value criteria are being considered in consultation with resident groups on the estate.
78. Pagabo is a member of Social Value UK and their unique Social Value Calculator is used to measure performance.

## **Economic considerations**

79. 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.

80. Submission will be evaluated on a range of social value measures including how they support more women and Black, Asian and minority ethnic professionals and residents into opportunities in the professional technical services industry.
81. 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 reoccurring 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.
82. The council will request the necessary information from tenderers (using the council’s standard documentation in relation to blacklisting). The Development Agreement conditions will also include an express condition compliance with the blacklist regulations, and include a provision to allow the Development Agreement to be terminated for breach of these requirements.

### **Social considerations**

83. The services require demonstration of social value commitment and submissions will be evaluated for these commitments. This will include a minimum threshold for apprenticeships and training based on the value of the PCSA and Development Agreement.
84. 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.
85. Minimum requirements will be set out as part of the tender documentation with contractors invited to exceed and these requirements including how they will provide immediate opportunities for residents of the Tustin Estate.
86. 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**

87. 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.
88. Work will build on existing work undertaken in the sustainability strategy (January 2021) for the redevelopment Option. This strategy provides recommendations that need to be tested and worked into the designs as appropriate.
89. The programme will align with the Council's Climate Emergency Strategy and forthcoming Action Plan and will connect to the South East London Combined Heat and Power Station (SELCHP).
90. Designs will meet relevant policy in the London Plan as well as GLA Guidance and the Council's own Southwark Plan and supporting existing and emerging guidance such as the London Construction Guide which includes but is 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.
91. 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**

92. The project manager oversees a delivery team consisting of a project management team, design team, technical advisor and will soon appoint a quantity surveyor to ensure effectively delivery of the project and works.
93. 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.
94. Annual performance reports will be presented to Departmental Contracts Review Board and the Corporate Contracts Review Board.

### **Staffing/procurement implications**

95. 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.
96. Project Management services have been appointed to support the delivery programme and in collaboration with the project management team a quantity surveyor is due to be appointed shortly.

### **Financial implications**

97. The report is recommending a procurement strategy, so at this stage there are no financial implications arising directly from the report's recommendations. The appointment of a delivery partner will be undertaken in two stages with an initial stage of services to be set out within a pre-contract services agreement of anticipated cost to the council of circa £1.5m, to be subject to a future Gateway 2 approval, and a full development agreement for the scheme. Through the PCSA it will be established if the land will benefit from land receipts and overage subject to an appraisal to be established as part of the delivery partner procurement process. The Tustin Estate Low Rise Redevelopment scheme will form part of the Council's Housing Investment Programme (HIP), and subject to Cabinet approval of the recommendations made in a separate report on this scheme, the cost of this procurement will be met from resources supporting the HIP.

### **Investment implications**

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

### **Legal implications**

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

### **Consultation**

100. The Tustin Estate Low Rise Redevelopment Programme is the result of the outcome of the Resident Ballot, March 2021, as outlined in paragraph 7. This Ballot was held on the back of a resident led feasibility and options appraisal completed between July 2019 and March 2021. This Low Rise Redevelopment will continue to operate a resident-led programme.
101. An Equality Health and Impact Assessment (EqIA) has been undertaken by the Council to ensure the impacts of the redevelopment of the estate have been independently assessed. It identifies the potential impacts of

redevelopment, the mitigations or enhancements of the impacts and a recommended action plan for the project. Please see Appendix 1.

102. Formal consultation will take place during the planning application process also.

### **Other implications or issues**

103. None.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Strategic Director of Finance and Governance (H&M 21/041 )**

104. This report is seeking Cabinet approval for the procurement strategy set out in this report to appoint a delivery partner for the first stage of the pre-construction services agreement to further develop the Tustin Estate Redevelopment programme. There are no financial implications arising directly from the report's recommendations, however, the cost of a contract awarded following this procurement is estimated at £1.5m, which will be met from resources supporting the Council's Housing Investment Programme

#### **Head of Procurement**

105. This report seeks the approval of the procurement strategy outlined in the report for a two-stage tender process for the procurement of a delivery partner for the Tustin Estate Redevelopment programme using the Pagabo Framework Agreement for Developer Led Schemes. The award of the first stage, Pre-Construction Services Agreement (PCSA) will have an estimated duration of 10 months, commencing in November 2021. It is anticipated to have a contract value of £1.5m and will seek approval in line with the contract standing orders and in consultation with the Cabinet Member for Council Homes and Homelessness.
106. The report asks that Cabinet notes that subject to a successful PCSA programme of design development to financial close, including planning approval, the council would have the option to award the Development Agreement to the preferred delivery partner for the Tustin Estate Low Rise Redevelopment Programme (comprising of residential, commercial, education and public realm works) for an anticipated period of 6 years commencing in Summer 2022 subject to a future approval via a Gateway 2 report to Cabinet in summer 2022.
107. The report details in paragraphs 60-70 the evaluation process that will be used for these contracts and asks Cabinet to note the use of a resident-led interview panel in the PCSA and Development Agreement procurement process detailed in paragraph 57.
108. Paragraphs 92-94 set out of plans for the management and monitoring of the

contracts, with the risks associated with the procurement set out in the table under paragraph 49.

109. Social value will be allocated 10% of the evaluation criteria set out in paragraph 60, with London Living Wage detailed in para. 79, apprenticeships in para. 83 and paragraph 89 confirming that the procurement will align with the Council's Climate Emergency Strategy and forthcoming Action Plan.

### **Director of Law and Governance**

110. This Gateway 1 report seeks Cabinet approval for the procurement strategy outlined in this report for a two-stage tender process for the procurement of a delivery partner for the Tustin Estate Redevelopment programme using Lot 3c of the Pagabo Developer Led Framework.
111. The council's Contract Standing Orders 5.1.2 provides that any procurement involving the 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 Pagabo Developer Led Framework. Cabinet is asked to note that the council has entered into an access agreement with Pagabo and as such is entitled to use their framework.
112. Paragraphs 31 to 49 of this report outlines the procurement route, namely a two stage tendering process whereby at stage 1, the council will enter into a Pre-construction Services Agreement (PCSA) with the successful tenderer to enable engagement with a delivery partner ahead of submitting planning permission. Details of the stage 1 pre-construction services are highlighted in paragraph 48 of this report.
113. Cabinet is asked to note in paragraph 2 of this report that the estimated contract value of the PCSA (which will be subject to a future Gateway 2 report in consultation with the Cabinet Member for Housing and Homelessness) is £1.5 million and is for an estimated period of 10 months from November 2021.
114. Cabinet is further asked to note, that the stage 2 process is dependent on a successful PCSA programme of design development to financial close including planning approval and that the council would have the option to award the Development Agreement to the preferred delivery partner for an anticipated period of 6 years commencing in Summer 2022, subject to a future Gateway 2 report in Summer 2022. It is important to note (as highlighted in paragraph 49 of this report) that the council is not obliged to award the stage 2 main works contract to the stage 1 PCSA contractor.
115. The evaluation procedure is outlined in paragraphs 60 to 70 of this report, with the price quality ratio being 50:50. Social value sits within the assessment of quality and comprises 10% of the total score. Paragraph 76 states that social value criteria are being considered in consultation with resident groups on the estate and paragraph 78 confirms that Pagabo is a member of Social Value UK and their unique Social Value Calculator is used

to measure performance. The report asks Cabinet to note in paragraph 61 that a resident representative will form part of the quality evaluation panel and qualitative questions within the tender document will consider resident engagement and needs. The contract will contain provisions setting out the future relationship between the supplier and residents in order to ensure appropriate ongoing resident engagement.

116. Paragraphs 71 to 75, and 86 of this report which note the community impact statement/and the equalities analysis demonstrate how the council has had due regard to the public sector equality duty in this procurement and Cabinet must satisfy itself that this duty has been complied with when considering the recommendations.

117. Paragraphs 100 to 102 of this report set out the consultation that has taken place and the further consultation will take place during the planning application process. The council must conscientiously take into account the outcome of consultation when taking a decision on the recommendations in this report.

### REASONS FOR URGENCY

118. The report sets out the procurement route for the delivery partner for Tustin. In order to secure external funding, a contractual start on site needs to be made by September 2022. This route therefore needs to be agreed at this time in order to meet this deadline.

### REASONS FOR LATENESS

119. This report required external information and feedback which was only available after the date of dispatch.

### BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Cabinet reports: Tustin Estate Low Rise Programme - Confirmation of undertaking a Tustin Estate Residents' Ballot	Virtual: Livestreamed on Southwark Council's YouTube channel here: <a href="https://www.youtube.com/user/southwarkcouncil">https://www.youtube.com/user/southwarkcouncil</a>	<a href="mailto:Paula.thornton@southwark.gov.uk">Paula.thornton@southwark.gov.uk</a>
<b>Link (please copy and paste into browser):</b> <a href="https://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=6665&amp;Ver=4">https://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=6665&amp;Ver=4</a>		

## APPENDICES

No	Title
Appendix 1	Tustin Estate Equalities and Health Impact Assessment

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Stephanie Cryan, Council Homes and Homelessness	
<b>Lead Officer</b>	Michael Scorer, Strategic Director of Housing and Modernisation	
<b>Report Author</b>	Sophie Hall-Thompson, Regeneration Manager	
<b>Version</b>	Final	
<b>Dated</b>	6 July 2021	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
	Head of Procurement	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		6 July 2021