
REPORT FOR: CABINET

Date of Meeting:	13 th February 2020
Subject:	Harrow Strategic Development Partner – Progress Update
Key Decision:	No
Responsible Officer:	Paul Walker, Corporate Director – Community
Portfolio Holder:	Councillor Keith Ferry, Deputy Leader of the Council and Portfolio Holder for Regeneration, Planning & Employment
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures:	None

Section 1 – Summary and Recommendations

This report updates members on the progress of the procurement of the Development Partner to establish the Harrow Strategic Development Partnership and advises of the additional fees for external advice to the point of the partnership being established.

Recommendations:

1. Cabinet is requested to note the progress of the procurement pursuant to the Public Contracts Regulations 2015.

Reason: (For recommendations)

To update Cabinet on progress with the implementation of the decision taken in May 2019 to procure a Strategic Development Partner to assist with the delivery of a number of the Council's core strategic development sites within the Regeneration programme, including the delivery of a new Civic Centre, and to approve funding to ensure high quality and expert advice is available to the Council for the rest of the procurement.

Section 2 – Report

Introductory paragraph

2.1 At its meeting in May 2019, Cabinet resolved to procure a Strategic Development Partner to assist with the delivery of a number of the Council's core strategic development sites within the Regeneration programme. Following a call in, this decision was confirmed by Cabinet at its June 2019 meeting.

2.2 Working in partnership with the private sector partner the intention is to develop the sites at Poet's Corner, Peel Road, and the first phase of Byron Quarter. As part of this, the partnership will provide a new Civic Centre for the Council.

2.3 At the Cabinet meeting in October 2019, Members considered a progress report bringing the Cabinet up to date at that time. This report updates on progress to the present date and seeks approval for fees on legal advice and commercial and financial advice until the Partnership is established.

Background

2.4 Pinsent Masons and Avison Young were appointed as the Council's legal and commercial property advisers respectively, and advised that the Council should commence a procurement process under the Public Contracts Regulations 2015 to seek a Strategic Development Partner for three core sites within the borough; Poets Corner, Byron Quarter (Phase 1), and Peel Road Car Park.

2.5 Following the Cabinet decisions referred to above the procurement process was launched in June 2019. At the time of your last report (October 2019), the initial 13 bidders had been reduced from 13 to 5 and the Invitation to Submit Outline Solutions ISOS (which is the second stage) had been launched. Dialogue sessions with each bidder were in progress.

2.6 Dialogue sessions are held in themes on the basis of the key areas that would ultimately form the partnership, these are:

- Planning and delivery which includes design
- Financial
- Legal
- Social Value

2.7 All sessions were attended by the Councils advisers and key relevant officers, and by appropriate representatives of each bidder and their advisers.

2.8 During the course of the ISOS stage one bidder dropped out, as the emerging project did not fit the constituent partners' business model.

2.9 At the end of the ISOS stage four submissions were received on 11th October 2019 which comprised of the following:

- Outline design proposals for all three core sites
- Financial model demonstrating viability across the core sites and cost neutrality in relation to the new Civic Centre
- Social Value Proposals
- Legal documents including updated Heads of Terms

2.10 These submissions were subsequently evaluated and the scores moderated on 4th – 6th November. As a result of this process the lowest bidder was deselected and notified accordingly.

2.11 The draft legal documents were then completed and the documents to move on to the next stage, the Invitation to Submit Detailed Solutions. The ISDS launched on the 18th November 2019 and dialogue started on 21st November 2019.

3. Current situation

3.1 Since that time the Council has carried out three rounds of dialogue with the remaining 3 bidders based on the same themes as above, and is embarking on round four.

3.2 The proposed timetable as it stands today is:

- Final Tenders to be received 06.03.20
- Evaluation complete 07.04.20
- Cabinet decision June 20

3.3 This is a slightly later date than planned at your report in October 2019, and this is to allow bidders due time to develop their plans, and particularly to find the optimum legal structure.

3.4 At the submission of Final Tenders bidders will submit:

- Detailed design proposals for the three core sites
- Financial model continuing to demonstrate viability across the core sites and cost neutrality in relation to the new Civic Centre
- Detailed social value proposals
- Substantially agreed legal documents

3.5 Although proposals will still be subject to the planning process and there will therefore still be change to design, the submissions will form the substantive basis of the HSDP's business plan, as limited refinement is permitted following tender submission under the terms of the Public Contracts Regulations for the Competitive Dialogue procedure.

3.6 Progress on outstanding work - At the time of the report in October it was noted that the Council has a number of areas to progress both with bidders and on its own behalf, to provide certainty to bidders as to the most effective solution, and to establish the Council's own ongoing position.

3.7 Affordable Housing and Tenure Mix - Progress is being made on clarifying these issues with bidders during the dialogue sessions and currently analysis of the Council's financial approach to purchase the properties is ongoing.

3.8 Harrow New Civic - A project manager has been appointed to lead the production of the Council's detailed employer requirements and this work is underway. This includes examination of the options for the release of the Poets Corner site and early phasing and decant opportunities.

3.9 Car Parking - Similarly a project has been launched to establish how the Council will deal with the key car parking issues arising from this project.

3.10 School Requirements - Bidders are now clear as to the potential requirements for a future new school if this is required as a result of the developments, and to the optimum location for this.

3.11 Climate Change - The dialogue includes conversations with bidders influencing proposals in light of the Council's Climate Change Strategy, and declaration of Climate Emergency. Reports on all these matters will be brought to Members in due course.

3.12 Resources - Avison Young and Pinsent Masons have been providing expert professional support for the HSDP procurement. The former providing expertise in development financing and the establishment of commercial joint ventures and the latter legal expertise. Their input has been of high quality and their continued input is essential to support officers of the Council to bring this complex procurement to a successful conclusion. At this stage it would be significantly

detrimental to take their support out of the project. Similarly it would not be sensible to change our professional advisors at this juncture. Additional fees are required, which can be contained within existing resources, the details of which are included in the financial implications section.

3.14 - Environmental Implications - Bidders are working within relevant policy as it relates to the environment, particularly including current GLA and LB Harrow planning policy, and the Council's Climate Change Strategy. The implications of the declaration of the Climate Change Emergency are currently being worked through with bidders.

Risk Management Implications

The project has a risk register which is under constant review.

Procurement Implications

The Competitive Dialogue is been undertaken pursuant to the Public Contract Regulation 2015. The project is being run by a multi disciplinary internal team supported by external experts.

I am satisfied that the progress made to date has been done so in compliance with the Public Contract Regulations 2015 and our Contract Procedure Rules.

Legal Implications

Judicial review proceedings have been brought against local authorities in the past, questioning the legality of partnerships structured via separate corporate vehicles. However, in 2018 the High Court ruled the use of an LLP is lawful where the local authority's primary or dominant purpose is not a commercial purpose. Therefore, local authorities must identify the statutory powers and the purpose of incorporating the commercial vehicle before progressing such an approach. The previous Cabinet report made the Council's objectives clear and therefore, the purpose of entering into a separate commercial vehicle.

The Council has a range of statutory powers to incorporate corporate vehicles: Section 1 of the Localism Act 2011 (known as the general power of competence) permits local authorities to do anything that individuals can do subject to any specific restrictions contained in legislation. Section 4 of the Localism Act still permits an authority to act for a commercial purpose; however, this must be done via a company rather than an LLP.

The Council is able to establish and participate in an LLP pursuant to the general power of competence above and where it is established to facilitate or is conducive or incidental to the discharge of any of its functions, the power set out in section 111(1) of the Local Government Act 1972.

The Council has statutory authority to hold property for a variety of purposes including

those mentioned in section 120(1) of the Local Government Act 1972 which include for the benefit, improvement and development of their area. The Council also has the power to invest for any purpose relevant to its functions under any enactment; or for the purposes of the prudent management of its financial affairs (s.12 Local Government Act 2003).

The Council may dispose of land by agreement in accordance with Sections 123 of the Local Government Act 1972 and consequently, transfer land into the chosen corporate vehicle, provided that disposal is made having received the best consideration reasonable obtainable.

The title to each of the Core Sites has been reviewed. Whilst all are burdened by various covenants and legal impediments, it is envisaged that the Council will use its statutory powers of appropriation pursuant to the Housing and Planning Act 2016. Such powers extinguish title encumbrances insofar as they could impede development and instead allow any party whose rights have been infringed to claim compensation.

All procurement activity of works and services continue to be carried out in compliance with the Public Contracts Regulations 2015 and Council Contract Procedure Rules.

Financial Implications

The Council has previously created financial capacity to fund the revenue elements of the Regeneration Programme. The total capacity was £5.1m of which £3.4m has been used and the balance remaining for 2019/20 is estimated at £1.7m. It is estimated approximately £950k revenue is required per annum (for 3 years) to support the Regeneration Programme and capacity has been set aside.

As the procurement exercise progresses, this will inform the future costs and cash flow implications for the council including the capital borrowing requirement, capital financing costs, financial returns and the on going support required.

Avison Young and Pinsent Masons have been providing expert professional support for this complex HSDP procurement and their continued input is essential to support officers of the Council to bring this complex procurement to a successful conclusion.

Consultant	Contract value	Total Forecast spend to 31/03/2020	Additional budget requirement	Budget remaining	2020/21 Additional budget requirement
Pinsent Mason	£350,000	£316,269	£185,000	£33,731	£151,269
Avison Young	£320,000	£357,956	£152,956	0	£115,000
Total	£670,000				£266,269

The forecast spend to 31/03/2020 for Pinsent Mason is £316k against a contract sum of £350k, resulting in a forecast underspend against the original contract sum of £34k. Additional expenditure of £185k for 2020/21 is required to conclude the procurement exercise, after deducting the underspend of £34k this is reduced to £151k.

The forecast spend to 31/03/2020 for Avison Young is £357k against a contract sum of £320k, resulting in a forecast overspend against the original contract sum of £38k. Additional expenditure of £115k for 2020/21 is required to conclude the procurement exercise. In May 2019, cabinet agreed to delegate authority to the Corporate Director – Community, to procure support for external commercial and legal advice to support the procurement exercise, the costs of which must be contained within the agreed remaining financial capacity of £1.7m. The additional costs detailed above can be contained within the £1.7m.

At this early stage in the process such financial implications cannot be quantified and hence no adjustments are recommended to the Council's revenue budget or capital programme. The MTFs and capital programme will be updated and reported in line with Financial Regulations.

Equalities implications / Public Sector Equality Duty

It continues to be the case that there are no equalities implications attributable to this update report. A detailed equalities impact assessment will be produced at the end of the procurement, and scheme by scheme assessments as necessary.

Council Priorities

Establishing the Harrow Strategic Development Partnership will help build a better Harrow. The partnership will significantly increase the supply of genuinely affordable and quality housing for Harrow residents, helping to create a thriving and modern Harrow. The new housing will contribute to reducing the levels of homelessness in the Borough. The new developments will link into the transport and parking infrastructure supporting economic growth and accessibility.

The development of the new Civic Centre is a central component of the modernisation of Harrow Council helping to enable the delivery of better more cost effective services, and improve digital access to service. New modern buildings will improve the Council's carbon footprint supporting the Council's ambitions to mitigate Climate change.

Section 4 - Statutory Officer Clearance

Name: Dawn Calvert

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Chief Financial Officer

Date: 28.1.2020

Name: Matthew Dineen

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on behalf of the *

Date: 28.1.2020

Head of Legal

Name: Nimesh Mehta

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Head of Procurement

Date: 28.1.2020

Name: Paul Walker

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Corporate Director

Date: 4.2.2020

MANDATORY**Ward Councillors notified:**

NO, as it impacts on all Wards

EqIA carried out:

NO

EqIA cleared by:

EQIA not required for update report but detailed EQIA to be produced at later stage

Section 5 - Contact Details and Background Papers

Contact: Julian Wain, Interim Commercial Development Director
Tel: 020 8736 6149 ex 6149
Julian.wain@harrow.gov.uk

Background Papers: None**Call-In Waived by the
Chair of Overview and
Scrutiny Committee****NOT APPLICABLE**