

**STROUD DISTRICT COUNCIL**  
**STRATEGY AND RESOURCES**

**AGENDA  
ITEM NO**

**17 DECEMBER 2019**

**6**

<b>Report Title</b>	<b>REDEVELOPMENT OF BRIMSCOMBE PORT</b>
<b>Purpose of Report</b>	To seek approval to documents for the procurement of a developer partner for the redevelopment of the Port and to commence the procurement of the infrastructure for the phase 1 works.
<b>Decision(s)</b>	<p><b>The Committee RESOLVES:</b></p> <ol style="list-style-type: none"> <li><b>1. To approve the following documents for the procurement of a developer partner for the redevelopment of the port:</b> <ol style="list-style-type: none"> <li><b>a. The Supplier Questionnaire (SQ) questions</b></li> <li><b>b. The Tender Evaluation Matrix</b></li> </ol> <b>and to delegate authority to the Head of Property Services in consultation with the Chair and Vice Chair of Strategy and Resources to make minor amendments to these documents prior to finalising the documents for the launch of the procurement process.</b> </li> <li><b>2. To approve the procurement of a contractor for the infrastructure for phase 1 of the project on a design and build basis and to transfer the package over to the development partner who is delivering the residential/commercial development (once appointed) to co-ordinate, manage and deliver.</b></li> </ol>
<b>Consultation and Feedback</b>	Consultation has taken place with the Project Board, Investment and Development Panel and the Ward Councillor.
<b>Financial Implications</b>	<p>There are no financial implications arising directly from the report. The existing capital programme includes those sums which the Council is prepared to contribute to the development. Further financial implications can be reported at the end of the procurement process.</p> <p>Andrew Cummings, Strategic Director of Resources Tel: 01453 754115    Email: <a href="mailto:andrew.cummings@stroud.gov.uk">andrew.cummings@stroud.gov.uk</a></p>
<b>Legal Implications</b>	<p>There are no specific legal implications arising from this report which seeks authority for approval of process and strategy in relation to a future procurement exercise. There will be legal implications arising from the procurement process which will be set out in the report for the planned meeting in March.</p> <p>Patrick Arran, Interim Head of Legal &amp; Monitoring Officer Tel: 01453 754369    Email: <a href="mailto:patrick.arran@stroud.gov.uk">patrick.arran@stroud.gov.uk</a></p>
<b>Report Authors</b>	<p>Leonie Lockwood, New Homes and Regeneration Manager Tel: 01453 754153    Email: <a href="mailto:leonie.lockwood@stroud.gov.uk">leonie.lockwood@stroud.gov.uk</a></p>

<b>Options</b>	The Council could choose not to develop a set of procurement documents to select a partner through the competitive dialogue route and market the site for sale, develop the site itself, or stop the project completely.
<b>Performance Management Follow Up</b>	Documents are reviewed by Project Board and update reports are brought to Investment and Development Panel. Regular Information Sheets are prepared for Strategy and resources Committee. A further report will be brought back to this Committee in March, before procurement commences.
<b>Background Papers/ Appendices</b>	Appendix 1 – Selection Questionnaire Appendix 2 - Tender Evaluation Matrix Appendix 3 –Comparison of Infrastructure Procurement Options Appendix 4 – Key Milestones

## 1. Introduction

- 1.1 At Strategy and Resources Committee on the 11 July 2019, members approved three of the tender documents for the procurement of a developer partner, using the competitive dialogue process, for the redevelopment of the Port namely the Output Specification, Value for Money Protocol and the Commercial Principles Paper.
- 1.2 The purpose of this report is to seek approval to further tender documentation, namely the questions for the Supplier Questionnaire (SQ), which is the pre-qualification stage to shortlist down to a minimum of 3 suppliers, and the tender evaluation matrix which is used to evaluate the final tenders submitted by bidders following the dialogue phase.
- 1.3 In addition, the report is seeking approval to commence the procurement of the infrastructure for the phase 1 works, which is all the work to the east of Brimscombe Hill.
- 1.4 A further report is proposed to be presented to Strategy and Resources Committee on the 5 March 2020 to seek approval to:
  - the Draft Heads of Terms for the Development Agreement,
  - the proposed agreement between the Council and the Parish Council for the Community Centre and
  - final approval to proceed with the procurement of a development partner.

## 2. Progress

- 2.1 **Planning** - Planning permission was submitted on 12 July for the infrastructure to include the reinstatement of the canal from Bourne Mill to Goughs Orchard lock, a new basin, a new access road off the A419 and bridge and road works on Brimscombe Hill to enable a canal and river crossing. At the same time a listed building application was submitted due to the fact that the demolition includes the modern buildings attached to the listed mill building and the Port House, which is in the curtilage of the listed building.
- 2.2 Feedback is still awaited from a number of consultees including the Environment Agency and Highways and an Environmental Statement (ES) is to be submitted by Atkins following the screening opinion from planning that the proposal is Environmental Impact Assessment (EIA) development and that an ES is required.

- 2.3 It is not clear at this stage when the application will be considered by the Development Control Committee as this will depend upon the timing of responses from third parties.
- 2.4 **Transfer of Brimscombe Port** - The legal process is well advanced for the transfer of the land from SVCC to the Council and this is due to conclude this calendar year. The amendments to the funding agreement with Homes England are also with solicitors and are progressing.
- 2.5 **Community Centre** - Further meetings have been held with the Parish Council, Stroud Valleys Canal Company (SVCC) and the Social Centre. The Parish Council has decided that it does not have the resources, either financial or practical, to develop and manage the size of community enterprise centre originally envisaged on the site. It wishes to work in partnership with SVCC and the Trustees of the Brimscombe and Thrupp Social centre to look at options for the possible replacement of the existing social centre (along with visitor and boaters facilities) on the site.

### **3. Procurement of a Developer Partner**

- 3.1 Members approved the Output Specification, Commercial Principles Paper and Value for Money Protocol in July. These are three of the key documents for the tender package for the procurement of a developer partner.
- 3.2 Members are now asked to approve the SQ questions and the tender evaluation matrix. These are attached at Appendix 1 and 2 respectively.

#### **SQ Stage**

- 3.3 At SQ stage, which is the pre-qualification stage to shortlist down to 3 suppliers, the criteria has to be based on looking at the company's capacity, not how they propose to meet the contract. It is backward looking, assessing their experience and technical ability to carry out the project. It is not appropriate to consider matters relating to the expected nature of the contract at this stage. The only criteria that can apply at SQ stage are economic and financial standing, technical or professional ability and failing to meet Regulation 23 of the EU Procurement Regulations, which relates to whether the bidder has been convicted for conspiracy, corruption, fraud etc.
- 3.4 There are standard questions that need to be asked and then a number of specific questions have been included for this project to provide us with case studies of previous projects etc. These are attached at Appendix 1.
- 3.5 The Council will use the replies to the SQ to shortlist the bidders down to 3 who will be taken through to the dialogue phase to work through their proposals.

#### **Tender Stage**

- 3.6 The Council will close the dialogue once it has identified one or more solutions capable of meeting its needs. Once it has been declared that the dialogue has ended, bidders will be asked to submit their final tenders.

- 3.7 Following tender submission, the Council may clarify, specify or fine-tune aspects of a tender but this must not involve changes to the basic features of the tender (or invitation) if such changes are likely to distort competition or have a discriminatory effect.
- 3.8 The evaluation matrix at Appendix 2 sets out the questions that the bidders will need to respond to and the weighting given to each. These responses will be scored by officers with specialist knowledge in those topic areas together with the Council's consultants, Gleeds. This will result in a preferred bidder and a recommendation will then be brought back to Committee for members to approve.

### **Soft market testing – Infrastructure Procurement**

- 3.9 A further soft market testing exercise was carried out in September. The predominant cause for concern between all those that engaged in this process was the inclusion in the procurement of a developer partner of the requirement to deliver both the canal reinstatement works along with the associated infrastructure to enable the site redevelopment.
- 3.10 The inclusion of the works together under the same contract is seen as very restrictive to the attractiveness of the scheme, with only one of the organisations who responded stating that they may be able to carry out the works by a specialist subcontractor. The extent of the infrastructure required is considered disproportionate to the size of land released for redevelopment and the number of new homes that can be delivered. There was a strong preference for these works to be tendered separately to the contractual partnership.
- 3.11 The Council could decide to continue with the procurement of a partner as planned and hope that, once the opportunity was launched and opened up to the full market, some developers would come forward. However, there is the risk of receiving no expressions of interest in the project.
- 3.12 Alternatively, in order to de-risk the project further the Council could consider a couple of options.
- Option 1 - Procurement and delivery of the canal and infrastructure works separately to the residential element through a Design and Build (D&B) contract (delivering the infrastructure itself).
  - Option 2 - Procurement of a D&B contract for the infrastructure works separately to the residential element to secure a fixed price and programme, but then transferring the package over to the developer partner who is delivering the residential/commercial development (once appointed) to co-ordinate, manage and deliver.
- 3.13 Either of the options will demonstrate to the market the Council's commitment to the project, and that feedback provided by the market has been taken on board to ensure the successful delivery of the site.
- 3.14 In terms of procurement, for either option, a mini competition through an existing framework could be utilised for the infrastructure works to minimise the delays to the programme and allow the developer partner procurement to commence at the earliest

opportunity. Either option would however, result in some delays to the programme. The benefits and disadvantages of both are set out in Appendix 3.

- 3.15 The developer partner would not be obliged to take on the contract and could procure a separate contract from its list of preferred suppliers. However, the contract procured by the Council would provide to the developer partner a market price for the works and the timescales involved in delivery that it could choose to accept.
- 3.16 It is recommended that the Council proceeds with option 2 and procures the contractor for the infrastructure on a Design and Build basis and transfers the package over to the developer partner who is delivering the residential/commercial development (once appointed) to co-ordinate and manage. This provides increased certainty for the developer partner, whilst limiting risk for the Council

### **Next steps**

- 3.17 The date for when a recommendation to proceed with the procurement process will be presented to Strategy and Resources Committee has moved from December to March. The decision to proceed is subject to various factors including the completion of the land transfer, the amendments made to the loan agreement with Homes England, the agreement for community facilities with the Parish Council, planning permission for the infrastructure and the market conditions being right. This information will not all be available until after the December meeting and hence the change in programme.
- 3.18 A re-run of the financial appraisal has provided sufficient comfort at this stage to proceed with the procurement process.
- 3.19 Once the Council has decided to proceed with procurement, a bidders' day is planned where interested developers will be given the opportunity to view the site and hear more about the project prior to the formal launch of the OJEU process.
- 3.20 The revised programme for the key milestones of the project is attached at Appendix 4.

## **4 Recommendation**

- 4.1 It is recommended that Strategy and Resources Committee approves the SQ questions and Tender Evaluation Matrix for the procurement of a developer partner for the redevelopment of Brimscombe Port and Option 2 for the procurement of a contract for the infrastructure for phase 1 of the project.