

EXECUTIVE BOARD DECISION



REPORT OF: Executive Member for Finance and Governance,
Executive Member for Growth and Development

LEAD OFFICERS: Director of Growth & Development

DATE: Thursday, 11 June 2020

PORTFOLIO(S) AFFECTED: Growth and Development

WARD/S AFFECTED: Darwen East; Darwen South;

KEY DECISION: Y

SUBJECT:

Part 1 - of Council Land off Ellison Fold Way (EFW) off Marsh House Lane, Darwen

1. EXECUTIVE SUMMARY

- 1.1 This report outlines the outcome of an informal tender exercise for Council owned land off Marsh House Lane in Darwen, referred to as EFW - Phase 1, and seeks approval to dispose of the site for housing development to Bidder A, the company recommended as preferred bidder.
- 1.2 To note that Blackburn with Darwen Borough Council and Lea Hough (appointed land agent) have jointly brought forward this residential development opportunity, which incorporates Council and privately owned land, through an informal tender process administered by Council officers.
- 1.3 To note that the sale of the land will be undertaken on behalf of the Council and the private landowners by jointly appointed solicitors.

2. RECOMMENDATIONS

That the Executive Board:

- 2.1 Approves the appointment of Bidder A as preferred bidder.
- 2.2 Delegates authority to conclude negotiations, including terms of the land sale and disposal contracts, to the Growth Programme Director in consultation with the Executive Members for Finance and Governance and Growth and Development to approve the final terms.
- 2.3 Notes the Council has been advised that Bidder A is also the preferred developer for the Phase 2 development at Ellison Fold Way.

3. BACKGROUND

- 3.1 The EFW Phase 1 development land comprises four parcels (shown edged red on the attached plan Appendix A) which are in Council and private ownerships. Parcels 1, 2A and 2C are Council land and parcel 2B is private land. The EFW Phase 2 land area is also illustrated on the plan attached at Appendix A.

3.2 The Council land parcels 1, 2A and 2C have been marketed for sale by informal tender as confirmed in the Executive Board Decision - Growth Programme 2019/20: Site Disposal & Development Projects March 2019.

3.3 The tender period was from 20th January 2020 to 16th March 2020.

3.4 A 'Data Room' was set up on the Council's website which contained all tender information. A technical pack comprising reports and surveys commissioned on the Council's land parcel was also available upon request and accessible via a unique web link, which was issued by the Growth Team. A total of 17 potential bidders requested and were issued with the link.

3.5 The joint marketing strategy with Lea Hough included:

- targeted electronic mailshot to over 120 developers and contractors;
- over 7000 registered users targeted by Place North West, which translated into 305 industry users viewing the tender information;
- promotion on the Council and Right Move websites; and
- telephone and 1-1 meetings with potential bidders.

3.6 The informal tender form required interested parties to:

- Make an offer for the housing development site using the technical surveys provided whilst still undertaking their own due diligence;
- Make an offer conditional on planning
- Offer to include the requested s106 contributions as determined by the Local Planning Authority;
- Show proposed layout, house types, tenure and numbers;
- Demonstrate previous housing development experience;
- Demonstrate financial resources and source of finance ; and
- Outline timeframe for development.

3.7 The tenders have been evaluated in accordance with the criteria referred to under 3.6 above.

4. KEY ISSUES & RISKS

4.1 The Council received significant interest in the EFW Phase 1 development opportunity. Six informal tenders were received by the closing date of 12.00 pm 16th March 2020. Tenders were opened at 4.00 pm on the 17th March 2020.

4.2 Whist 4 of the bidders were known to Council officers and Lea Hough, only one of the known bidders had previously developed in the borough in recent years, and were attracted by the quality of the site on offer and the comprehensive data pack.

4.3 The offers received prior to shortlisting and requesting additional information are confirmed in Table A of the Part 2 report.

4.4 Following a clarification process from all bidders, submissions from Bidder E and Bidder F were not progressed to the shortlisting process due to low value land offers and scheme concerns.

4.5 The 4 bids that were shortlisted and fully evaluated are fully detailed in Table B of the Part 2 report.

- 4.6 Analysis of recent land sales in the Borough of similar development size and density highlights that the offer by Bidder A represents a significant bid for the land and the Council will have achieved best value by disposing of the site for the offered amount.
- 4.7 Upon analysis the trend for each of the bidders shows that fewer units per acre are delivered on the Council's plots, reflecting site constraints and demonstrating that the decision to jointly market the sites with the land agent has proved to be beneficial and unlocked additional value of the Council's land.
- 4.8 Bidder A's offer not only represents the best value following full evaluation of conditions of offer; Bidder A also provided a thorough understanding of the site constraints, accurate interpretation of local market requirements, a good level of detail showing an appropriate scheme layout and design, with significant previous experience of high quality housing delivery and open space proposals. Bidder A is an established, knowledgeable and reputable local developer and has been active in the borough for many years.
- 4.9 For these reasons it is recommended that the Council accept Bidder A's offer and appoint the company as preferred bidder. Bidder A has provisionally accepted the conditions of sale and Heads of Terms in the tender documentation.
- 4.10 Parcel 3 (shown edged red on the attached plan Appendix A) is also Council owned land and is 0.12 ha in size. This supplementary land parcel will support the development of EFW Phase 2 and will be used as garden areas or ancillary open space for the overall development. Whilst not essential, it is recommended to include this land in the overall transaction to enable an enhanced scheme to be delivered and is valued on a pro-rata basis.
- 4.11 The transfer of land parcel 3 will be subject to satisfying any restrictions or covenants on the land title which may restrict the disposal. Final details of this will be undertaken during the land conveyancing stage.
- 4.12 To note, Bidder A has been continuing to construct homes in the Borough throughout the COVID-19 lockdown stage.
- 4.13 The main heads of terms are detailed in the Part 2 report.

5. POLICY IMPLICATIONS

The disposal of the site via an informal tender is in line with the Council's disposal policy to secure best consideration and satisfies procurement requirements.

6. FINANCIAL IMPLICATIONS

- 6.1 The purchase price will be split pro-rata to land area and detailed in the Part 2 report.
- 6.2 The Council will receive a capital receipt and the development will support future increases in Council Tax income as well as New Homes Bonus.
- 6.3 The Council will receive a section 106 contribution as detailed in the Part 2 report.
- 6.4 The Legal costs for the jointly appointed solicitors will represent cost efficiencies and ensure both parties are represented with consistency.

7. LEGAL IMPLICATIONS

- 7.1 The Council will look to safeguard its interests in ensuring that its land is developed in line with its future revenue benefit projections by agreeing a build programme with the developer to the extent that it can legally do so without undertaking formal procurement.
- 7.2 As the proposed disposal is for the freehold of the land, then various aspects of S123 of the Local Government Act 1972 (“the Act”) are considered to apply.
- 7.3 The Council seeks to achieve best consideration reasonably obtainable for the site, unless the Council can apply the exemptions permitted by Government Circular. Although the Council has a general power of competence pursuant to s1 of the Localism Act 2011 to do anything that individuals can legally do, the Local Government Act 1972 and General Disposal Consent (England) 2003 to seek Best Consideration still applies and so this must be minded when the Council makes any decision to sell via any process, including an informal tender process.

8. RESOURCE IMPLICATIONS

The disposal will be managed by the Growth team and Lea Hough. The jointly appointed solicitors will be required to complete all the legal formalities relating to the freehold disposal and will interface with the Council’s legal team on matters relating to formal execution of contract documentation etc..

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision.

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision.

10. CONSULTATIONS

A series of public consultations took place as part of the local plan process, resulting in the Council allocating the site for housing development in the Blackburn with Darwen Local Plan Part 2 (2015). Further statutory stakeholder and public consultations will be undertaken during the full planning application process.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council’s Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

CONTACT OFFICER:	Simon Jones, Growth Programme Director
DATE:	19 th May 2020
BACKGROUND PAPER:	Growth Programme 2019/20: Site Disposal & Development Projects – EBD March 2019