



EXECUTIVE BOARD DECISION

REPORT OF: Executive Member for Regeneration
Executive Member for Resources

LEAD OFFICERS: Director of Growth & Development

DATE: 14th February 2019

PORTFOLIO/S AFFECTED: Regeneration Resources

WARD/S AFFECTED: Livesey with Pleasington

KEY DECISION: YES ☒ NO ☐

SUBJECT: Disposal of Council Land at Tower Road, Blackburn BB2 5LE

1. EXECUTIVE SUMMARY

1.1 This report outlines the outcome of the Informal tender for the Council owned land at Tower Road, Blackburn and seeks approval to dispose of the site for housing development to the recommended preferred bidder.

1.2 This report outlines the objections of the appropriation of land process and seeks approval to conclude the appropriation of land at Tower Road for disposal.

1.3 This report outlines the process for the disposal of 'open space' and requests delegated authority for the consideration of any objections and if appropriate approval for the disposal of 'open space'.

2. RECOMMENDATIONS

That the Executive Board:

2.1 Approves the appointment of Bidder A as preferred bidder.

2.2 Approves the appointment of Bidder B as reserve bidder.

2.3 Acknowledges the objections received for the appropriation of land from Environment and Health & Adult Social Care portfolios to Regeneration & Growth at the Tower Road site.

2.4 Approves the appropriation of land at the Tower Road site from Environment and Health & Adult Social Care portfolios to Regeneration & Growth.

2.5 Delegates authority to the Director of Growth and Development, in consultation with the Executive Member for Regeneration and the Executive Member for Resources, to:

- Consider any objections to the proposed disposal of 'open space' at Tower Road and if appropriate
- Approve the proposed disposal of 'open space' at Tower Road.

2.6 Grants permission for Council officers to negotiate Heads of Terms to finalise the terms of the disposal.

2.7 Delegates authority to conclude negotiations, including terms of any land sale and contracts to the Growth Programme Director and Deputy Chief Executive in consultation with the Executive Members for Resources and Regeneration to approve the final heads of terms.

2.8 Authorises the Director of HR, Legal and Governance to complete the necessary legal formalities.

3. BACKGROUND

3.1 The plot of land (shown edged red on the attached plan Appendix A) was marketed for sale by informal tender as outlined in the Executive Member Decision - Land at Tower Road - Former Feniscliffe Bank May 2018. The tender period was from 10th September 2018 to 22nd October 2018.

3.2 A 'Data Room' was set up on the Council's website which contained all tender information along with a host of technical reports and surveys commissioned on the site by the Council.

- The tender was initiated on the 10th September 2018 with around 100 developers being e-mailed directly by the Growth Team with full marketing particulars, and follow up calls being made.
- A 'Place Northwest' e-mail flyer was also sent out advertising for the site.

3.3 The informal tender form required interested parties to:

- Make an offer for the housing site using the technical surveys provided whilst still carrying out their own due diligence
- Make an offer conditional on planning but excluding any S106 payments from the offer price
- Show proposed layout, house types and numbers.
- Demonstrate previous housing development experience
- Submit a proposed engagement plan for working with the stakeholders and the community
- Demonstrate financial resources and source of finance
- Outline timeframe for development

3.4 The tenders have been evaluated in accordance with the criteria referred to under paragraph 3.3 above.

4. KEY ISSUES & RISKS

4.1 The Council received significant interest in the Tower Road site. Ten informal tenders were received by the closing date 12.00 pm 22nd October 2018. Tenders were opened at 2.00 pm on the 22nd October 2018 and all bids were compliant.

4.2 Six of the tenderers have previously never built in the borough and were attracted by the quality of the site on offer and the comprehensive data pack.

4.3 The tenders are summarised as follows:

* Financial offer excludes an agreed amount for s106 contributions which will be determined by the Planning Authority. The agreed s106 contribution will be deducted from the capital receipt.

Bidder ID Number	Scheme Proposal	Conditions of Offer
A	30 – 3 and 4 bed large family homes for sale	Subject to planning, excludes S106. Good experience of house building. POS retained as per planning approval.
B	No scheme included.	Subject to planning, excludes S106. Some experience of house building.
C	No scheme included.	Subject to planning, excludes S106. Good experience of house building.
D	No scheme included.	Subject to planning, excludes S106. Limited experience of house building.
E	No scheme included.	Subject to planning, excludes S106, 10% deposit requested. Substantial experience of house building.
F	27 –3 and 4 bed family homes	Subject to planning, excludes S106. Some experience of house building. Subject to Foul and Surface water connection clarifications. Subject to Coal Boreholes.
G	30 - Proposing 60% affordable homes. 2-4 bed.	Subject to planning, excludes S106. Good experience of house building. POS retained as per planning approval.
H	30 – 3 and 4 bed family homes	Subject to planning, excludes S106. Good experience of house building. POS retained as per planning approval.
I	30 – 3 and 4 bed family homes	Subject to planning, excludes S106. Good experience of house building. POS retained as per planning approval.
J	30 homes	Subject to planning, excludes S106, satisfactory ground investigation. POS retained as per planning approval.

4.4 A revised offer from Bidder G was received on 8th November 2018.

4.5 Following initial assessment Bidder A and Bidder B were shortlisted due to both offers being within a similar range and above the Growth team's informal valuations. Both companies shortlisted have previously never built in the borough.

4.6 Post tender clarification meetings were scheduled in November with Bidder A and Bidder B to clarify their offers. Both bidders confirmed they had significant experience in community engagement and agreed they would undertake a pre-planning engagement meeting with the local residents which is a key requirement for the Council.

4.7 During the assessment process site inspections for both bidders were undertaken by officers from the Growth team to assess the quality of housing product and construction site management. Both inspections satisfied the Council's requirements as the development sites were well managed with high quality housing being constructed.

4.8 Bidder A and Bidder B were formally requested to submit their final offers by on Monday 3rd December 2018 confirming their acceptance to the updated conditions of sale and completing the requested information.

4.9 The Council received final offers from Bidder A and Bidder B by the closing date and both bids were found to be compliant.

4.10 The tenders are summarised as follows:

Bidder ID Number	Scheme Proposal	Conditions of Offer
A	30 No. 3 and 4 bed large family homes for sale	Subject to planning and excludes S106.
B	30 No. 3 and 4 bed large family homes for sale	Subject to planning and excludes S106.

4.11 Bidder A and Bidder B provided a detailed engagement strategy for resident consultation.

4.12 Bidder A financial offer is higher than the informal valuation undertaken by the Growth team.

4.13 Bidder A offer represents the highest price following full evaluation of conditions of offer. Bidder A also provided a good level of detail showing a scheme layout, house types, floor sizes, residents' car parking, a detailed resident consultation strategy, previous experience of high quality housing delivery and 'open space' proposals which are in line with outline planning application. Bidder A is a high quality housing provider and would be new to the borough.

4.14 For these reasons it is recommended that the Council accept the Bidder A offer and appoint them as preferred bidder. Bidder A has provisionally accepted the conditions of sale and draft Heads of Terms in the tender documentation.

The draft heads of terms are as follows:

Vendor

Blackburn with Darwen Borough Council

Purchaser

Bidder A

Description

Council owned land at Tower Road (see attached plan Appendix A)

Method of Disposal

Freehold subject to planning approval

Development Timescale

Still to be finalised but confirmed full build within the required 3 years

Costs

The purchaser will be responsible for the payment of the Council's surveyor's fees and legal costs to a cap.

Risk

The sale will be subject to planning approval, the developer plans to submit a planning application summer 2019.

4.15 Reserve Bidder

Bidder B offer represents a very competitive price following full evaluation of conditions of offer. Bidder B also provided a good level of detail showing a scheme layout, house types, floor sizes, residents' car parking and 'open space' proposals which are in line with outline planning application.

4.16 For these reasons it is recommended that the Council appoint Bidder B as reserve bidder, allowing the Council to appoint Bidder B if negotiations cannot be concluded with Bidder A.

4.17 Appropriation

On October 11th 2018 notice was given under Section 122 of the Local Government Act 1972 that Blackburn with Darwen Borough Council intends to appropriate the land at Tower Road for planning purposes from Environment and Health & Adult Social Care portfolios to the Regeneration & Growth portfolio to enable the site to be developed for housing and enable the Council to override third party rights and easements pursuant to Section 203 of the Housing and Planning Act 2016.

The proposed appropriation required the Council to advertise the proposal twice over two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed appropriation which may be made to them. Over the two week advertising period the council received twenty two objections in relation to the appropriation by local residents. The main area of concern is the loss of green space for recreational activities. However there is adequate provision of green space in the area as Witton County Park which is 480 acre public park situated directly adjacent to the site which can be easily accessed and utilised by local residents. (See Appendix B for summary of Objections).

4.18 It is recommended that the Council approve the appropriation of land from the Environment and Health & Adult Social Care portfolios to Regeneration & Growth to enable the site to be developed for housing.

4.19 Disposal of Open Space

As the land at Tower Road (excluding the decommissioned care home) to be disposed of is considered to be 'open space' then section 123(2A) of the Local Government Act 1972 applies. This requires the Council to advertise the proposal twice over two consecutive weeks in a newspaper circulating in the area in which the land is situated, erect site notices, and consider any objections to the proposed disposal which may be made to them. The advertisement is to take place once a developer has been appointed and a scheme proposed.

4.20 It is recommended that the council delegates authority to the Director of Growth and Development, in consultation with the Executive Member for Regeneration and the Executive Member for Resources, to consider any objections or comments to the proposed disposal of 'open space' at Tower Road and if appropriate, approve the proposed disposal of 'open space' at Tower Road for housing development.

5. POLICY IMPLICATIONS

5.1 The disposal is in accordance with the Council's disposal policy and will meet the strategic aims of the Council's Growth Programme.

6. FINANCIAL IMPLICATIONS

6.1 The Council will receive a capital receipt.

6.2 The Council will also receive Council Tax income and New Homes Bonus for 30 homes.

6.3 The Council will also make a property management saving as a result of disposal of the former care home.

7. LEGAL IMPLICATIONS

7.1 The disposal of the site via an informal tender is in line with the Council's disposal policy, it will satisfy procurement requirements and is supported by technical input from legal and procurement.

7.2 The Council will need to ensure appropriate best considerations in disposal of land as part of any contractual agreements with developers.

7.3 The Council will look to safeguard its interests in ensuring that the land is developed in line with its future revenue benefit projections by agreeing a build programme with the developer.

7.4 Final Heads of Terms for the sale of the land and the completion of contractual terms will be presented to the Executive Members for Resources and Regeneration for approval.

7.5 In authorising the appropriation of the Tower Road site, the Council has considered the provisions of the Equalities Act 2010 and the Human Rights Act 1998, so far as they might be applicable in deciding whether or not to authorise the appropriation, and with regard to Article 1 of Protocol 1 Part II of Schedule 1 of the Human Rights Act 1998, it is considered that in balancing the rights of the individuals who may be affected by the appropriation against the benefit to the community of proceeding with the appropriation, the appropriation resulting in the interference of (possible) individual rights is justified in the interests of providing necessary housing to the area.

8. RESOURCE IMPLICATIONS

8.1 The disposal will be led by the Growth team; Legal resources will be required to complete the legal formalities relating to the freehold disposal.

8.2 Additional support may be required from Capita to carry out assessments of scheme proposals, deliverability and Heads of Terms.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

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. (*insert EIA link here*)

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. (*insert EIA attachment*)

10. CONSULTATIONS

Extensive stakeholder consultations have been undertaken during the outline planning application process. Further consultations will be undertaken in line with statutory requirements during the full/reserved matters planning process for the development, in addition a pre-planning consultation event will be undertaken by the appointed developer with local residents at a time and place stipulated by the council which is to be agreed.

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 and published if applicable

VERSION:	1.0
CONTACT OFFICER:	Simon Jones, Growth Programme Director
DATE:	16 th January 2019
BACKGROUND PAPER:	Land at Tower Road Tender documents, Executive Member Report Land at Tower Road - Former Feniscliffe Bank May 2018