

## **Osmaston Vision – Delivery Partner Selection**

### **SUMMARY**

- 1.1 The purpose of this report is to seek approval for the appointment of the Preferred Delivery Partner for the regeneration of Osmaston, and to provide an update to Members as approved on 22 November 2011.
- 1.2 On 22 November 2011, Cabinet Members approved
  - a. To delegate authority to the Chief Executive, following consultation with the Leader of the Council, to procure a delivery partner to deliver comprehensive regeneration in Osmaston.
  - b. To report back to Council Cabinet to obtain approval to enter into a joint venture or other arrangement once the preferred delivery partner has been identified and the detailed financial terms, together with proposals for the first phase of development.
  - c. To approve in principle the provision of a replacement primary school as part of the comprehensive regeneration of Osmaston, subject to the viability of the joint venture arrangement and the availability of funds.
  - d. To ensure the involvement of the Osmaston community, principally through 'Oscar'.
- 1.3 On 19 July 2011 Council Cabinet gave approval for the Council to enter into a Collaboration Agreement with Rolls Royce relating to the transfer to the Council of a number of vacant Rolls Royce owned sites in Osmaston.
- 1.4 The procurement process detailed in the report of 22 November 2011 is now complete. This report, therefore, seeks approval to appoint Keepmoat Ltd as the Preferred Delivery Partner for the Osmaston Regeneration.
- 1.5 A separate report will be provided to Council Cabinet in relation to the provision of primary school facilities at Osmaston, however, the proposal is for the refurbishment of existing facilities, which will require a financial contribution from the JVV.

### **RECOMMENDATION**

- 2.1 To approve the appointment of Keepmoat Ltd as Preferred Delivery Partner.
- 2.2 To delegate authority to the Chief Executive, following consultation with the Leader of the Council and the Strategic Director of Resources, to finalise details relating to the structure and operation of the Joint Venture Vehicle, and the associated legal documentation.
- 2.3 To approve in principle the approach to the first stage of residential development, on the Main Works Site, as outlined in paragraph 3.3.
- 2.4 To delegate authority to the Chief Executive, following consultation with the Leader of the Council, to progress the transfer of land from Rolls Royce in line with the terms of the Collaboration Agreement approved by Council Cabinet on 19 July 2011, including finalising the remediation strategy for the Rolls-Royce sites.
- 2.5 Subject to specific terms to be agreed in further reports to Council Cabinet, to approve in principle the use of funds identified through the Joint Venture Vehicle towards the refurbishment of school facilities at Osmaston Primary School.

## **REASONS FOR RECOMMENDATION**

- 3.1 Following a detailed dialogue and subsequent appraisal process, Keepmoat have demonstrated that their submission represents the most advantageous tender which is compliant with the Council's requirements. A long term partnership approach is proposed, which will deliver the aims of the Osmaston Vision, and will provide a contribution towards the improvement of the primary school provision in Osmaston.

Proposals for the structure and operation of the Joint Venture Vehicle have been agreed with Keepmoat and this report seeks approval to advance the necessary documentation and enter into agreement with Keepmoat. A more detailed description of the proposed structure and operation of the JVV and the procurement process is outlined in section 4.3 and appendix 2 of this report.

- 3.2 As described in the report to Council Cabinet 22 November 2011, a joint venture vehicle would allow a shared-risk model that captures all the assets and benefits in order to focus efforts on the wider regeneration. It has the ability to deliver more than a pure housing solution and to collect together all resources to achieve the widest regeneration outcomes possible in the current market.
- 3.3 Keepmoat have proposed an outline solution for residential development which will deliver approximately 343 new homes on the site, including 20% affordable housing on the main works site. The finer detail of this development is to be worked up, but their submission demonstrates a solution which addresses the requirements of the community and the Council is financially viable and deliverable.

Keepmoat have expressed a desire to run the design process for the residential development alongside the formulation of the remediation strategy in order that a planning application may be submitted towards the end of 2013.

- 3.4 A Collaboration Agreement between Rolls Royce and the Council is in place. Under the terms of this agreement, Rolls Royce agreed to transfer their vacant sites to the Council once remediation costs have been finalised and the Joint Venture Vehicle is formed. Rolls Royce did not wish to be involved in the procurement process, but have received regular briefings in order to ensure their satisfaction with the process and the proposals.
- 3.5 Rolls-Royce have agreed to transfer the land to either the Council or the Joint Venture Vehicle, along with a dowry to cover the costs of remediating the land. The dowry would be held by the Council until required to pay remediation costs. It is vital that the figure for the dowry is set at a realistic figure to limit risks to the Joint Venture Vehicle, and therefore to the Council. It is proposed that a joint approach to formulating the remediation strategy and determining a cost is undertaken between the Council, Rolls Royce and the Delivery Partner. The use of a collaborative approach should ensure that delays and discrepancies are minimised.
- 3.6 It was made a requirement of the Invitation to Submit Final Bids that Bidders demonstrate where a contribution could be made from the Joint Venture Vehicle towards the regeneration in Osmaston, principally the primary school. The proposal from Keepmoat indicates that a contribution of £7,000 (index linked) per sold property could be made, subject to sale of properties.

In order to deliver the refurbishment of the school and other infrastructure improvements in the early stages of the regeneration programme it is proposed to borrow £2m in 2014/15 and 2015/6 with repayments over 7 years of £365,000 per annum, to be repaid using the Developer contributions, as the table below. The £2m would be split £1.5m to the Osmaston School and £0.5m to the Marble Hall. The repayments will be phased on the following basis

Year	Developer contribution
2014/15	0
2015/16	350000
2016/17	358750
2017/18	367719
2018/19	376912
2019/20	386335
2020/21	395993
2021/22	405893

These contributions equate to £7,000 per property (index linked), on 343 properties at an estimated build rate of 50 per annum, completions from 2016.

<b>SUPPORTING INFORMATION</b>
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#### 4.1 **Background**

The context in which the Regeneration of Osmaston has become a priority for the Council has been outlined in many previous papers, including the Council Cabinet Report approved on 22<sup>nd</sup> November 2011 to which this report provides an update.

#### 4.2 **Collaboration Agreement**

Council Cabinet approved 19 July 2011, and outlined in 4.3 Procurement Strategy : Step 2.

#### 4.3 **Procurement Strategy**

As detailed in the report of 22<sup>nd</sup> November 2011, the procurement strategy was based on an EU compliant Competitive Dialogue (CD) approach. The CD approach was selected due to the need to find a sustainable solution to the regeneration challenges. There was a four step approach;

##### **Step 1: Preparation**

- Derby City Council completed the preparation of an Investment Prospectus for the 'Osmaston triangle' area in conjunction with Derby Homes and OSCAR, utilising support from HCA and in consultation with Rolls-Royce. This defined the essential and desirable criteria for the regeneration project and acted as the baseline engagement with the Market.
- 'Soft market testing' was undertaken with developers from the HCA delivery framework. This included a Developer's Day and two months of work on costing and scoping potential schemes in the area; including detail on the Main Works Site.

##### **Step 2: Collaboration Agreement with Rolls-Royce**

- The Council and Rolls-Royce had an equal role in setting the brief for procuring a private sector development partner for the Development Land and to meet the costs of the procurement equally. All claims were based on defrayed costs and any commitment agreed to by both partners to this Agreement.
- The Council took the lead on the practical arrangements (involving Derby Homes) of undertaking a full EU Compliant procurement process.
- Rolls-Royce committed to transfer its redundant land holdings in Osmaston to the Council for a nominal consideration of £1 at the point a Development Partner is appointed. The parties shall review the remediation costs arising out of the Development Partner's proposals jointly in order that the costs of remediation can be established.

### **Step 3: Procurement – completed Subject to Council Cabinet Approval.**

- EU Competitive Dialogue procurement to secure a Delivery Partner for the Osmaston Vision.
- Involvement of the HCA, OSCAR, DCC Planning and other internal partners
- There were a number of expressions of interest to be the Delivery Partner and a shortlist of four was selected to be part of the Dialogue process.
- Two tenderers, Keepmoat and Morgan Sindall were invited to submit a final bid.
- The bidder's tenders were subject to a detailed evaluation, by a range of internal and external parties against the following criteria:
  - Financial proposal
  - Legal structure
  - Development quality and functionality
  - Sustainability and development proposal
  - Project delivery

Keepmoat Ltd were selected as the proposed preferred partner due to the nature of their financial proposal and scoring well against the other criteria above. Throughout the Competitive Dialogue process they showed a willingness to engage with all parties to find a sustainable solution.

### **Step 4: The Proposal**

#### **Delivery Partner Joint Venture Agreement – subject to Council Cabinet Approval**

- A Joint Venture vehicle (JV) to be established via a Members Agreement, to comprise Derby City Council and Keepmoat. The purpose of the JVV being to deliver the regeneration in Osmaston.
- Profits to be shared 50:50 with the JV retaining their share of the profits for the wider benefit of the Osmaston Community.
- Risk to be shared 50:50.
- The Council to appoint the JV to carry out the regeneration of Osmaston via a Development Agreement.
- JV to appoint Keepmoat as Developer, where appropriate to do so.
- A Board to oversee the operation of the JV with equal membership from DCC and Keepmoat.
- A Steering Group with membership from DCC, Keepmoat, OSCAR and Derby Homes to act as a forum and to monitor the performance of the JV.
- A agreed lump sum contribution to be made towards the Regeneration Programme upon the sale of each property.

#### 4.4 Osmaston Primary School

Full details and a separate report for approval will be provided to Council Cabinet. However, indicative costs for the refurbishment of the existing school facilities is outlined in the table below. In addition, previously approved funding is also listed.

<b>Osmaston Primary Capital Funding</b>				
Funding source	Secured funding	Unsecured funding	Potential funding	Notes
Approved Funding (Council)	£3,457,000			Funding secured.
Developer Contribution			£1,500,000	Subject to entering into a JV with Keepmoat, sale of properties.
CYP School Capital Programme			£243,000	Possible contribution subject to DfE allocation and Council Cabinet consideration.
<b>Total</b>	<b>£3,457,000</b>	<b>£1,000,000</b>	<b>£1,743,000</b>	
<b>Potential Total</b>				<b>£5,200,000</b>

The proposals submitted by Keepmoat suggest an indexed linked figure in the region of £7,000 per sold property on the Main Works Site could be made available from the Joint Venture Vehicle for regeneration work within Osmaston.

On the basis of 343 new homes being provided over a 7 year period with sales at 24 per annum, this is a potential contribution by the end of the development of £2,400,000.

In order to assist the early delivery of the School refurbishment and Marble Hall development, it is necessary to borrow £2m in anticipation of the receipt of the developer contributions to be repaid at a rate of £365,000 per annum using the Developer contributions.

<b>OTHER OPTIONS CONSIDERED</b>
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Options	Regeneration Impact	Deliverability / Timescales	Financial Implications
1. Retender	Delays to commencement. Loss of impetus in programme. Damage to relationships with Osmaston Community,	Deliverability dependant upon interest from potential new tenderers. Timescales would be delayed.	Additional costs to DCC as a result of the tender exercise. Risk that the exercise may not result in a more financially advantageous tender.
2. Leave to Rolls Royce	Will be dealt with by Rolls-Royce on a commercial basis Limited Council or community control of process Will not deliver wider benefits to the area	Would be dictated by market conditions  Site could be sold and land-banked	No finance expenditure by DCC, but potential financial burden for wider economic and social issues.
3. Individual site delivery	Would deal with schemes on an individual basis with a discreet process for each Harder to tie into a holistic approach. Will not deliver wider benefits to the area	Viable sites would be delivered in short to medium term but hard to tackle sites would remain vacant.	The Council would need to fund from PWLB and front fund. Housing elements would be restricted by HRA Debt Cap issues.
4. Third Party Investment	Purely a housing solution – Will not deliver wider benefits to the area. Focus on the Main Works Site No guarantee of council or community control beyond statutory authority.	Short to medium term delivery on existing cleared sites but medium to long term on clearance of existing properties	Finance available up front Council required to guarantee lease payment to funder
4. Development Agreement	Delivers a scoped version of the area regeneration.	Initial document preparation could take up to a year but quick 6 month procurement process	Shared risk with developer Large up front procurement costs



**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Janie Berry Martyn Marples NA Steve Meynell Richard Williams
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<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Rachel Collins 01332 641616 rachel.collins@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Joint Venture Vehicle Structure
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<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 The Collaboration Agreement with Rolls-Royce ensures that the cost of the procurement exercise to choose a development partner is met equally by the City Council and RR.
- 1.2 A detailed and lengthy procurement process incorporating a programme of dialogue meetings over 8 months has resulted in a bid which is economically advantageous to the Council and meets the Council's requirements.

The proposal from Keepmoat indicates that a contribution of £7,000 (index linked) per sold property could be made, subject to sale of properties.

In order to deliver the refurbishment of the school and other infrastructure improvements in the early stages of the regeneration programme it is proposed to borrow £2m in 2014/15 and 2015/6 with repayments over 7 years of £365,000 per annum, to be repaid using the Developer contributions, as the table below. The £2m would be split £1.5m to the Osmaston School and £0.5m to the Marble Hall. The repayments will be phased on the following basis

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## Legal

- 2.1 Section 1 of the Localism Act 2011 gives local authorities the power under the General Power of Competence to enter into agreements such as the proposed Joint Venture Agreement.

The powers are:

- (1) A local authority has power to do anything that individuals generally may do.
- (4) Where subsection (1) confers power on the authority to do something, it confers power (subject to sections 2 to 4) to do it in any way whatever, including—
- (a) power to do it anywhere in the United Kingdom or elsewhere,
- (b) power to do it for a commercial purpose or otherwise for a charge, or without charge, and
- (c) power to do it for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area.
- (5) The generality of the power conferred by subsection (1) (“the general power”) is not limited by the existence of any other power of the authority which (to any extent) overlaps the general power.
- (6) Any such other power is not limited by the existence of the general power (but see section 5(2)).

## Personnel

- 3.1 There are no personnel implications arising from this report.

## Equalities Impact

### 4.1 Human Rights

The Delivery Partner Procurement process and Collaboration Agreement engage Article 8 and Protocol 1 Article 1 of the Convention as incorporated into English Law by the Human Rights Act 1998. Article 8 is engaged as the regeneration of the area as facilitated by this process will have a positive impact on the residents Family Life and Home. Protocol 1 Article 1 is engaged as the Collaboration Agreement is tying the landowner into a specified use for his land. It is restricting his future use of a possession. Restrictions can be imposed if they are allowed by law, are necessary and are in the public interest. The Collaboration Agreement is a legally binding document which allows the restriction. The restriction is necessary to improve the area and the restriction is in the public interest.

### 4.2 Equality and Diversity

The scheme will enhance social inclusion through the provision of sustainable communities and stable housing markets that support social and economic investment. A strong development opportunity will be created, removing what has become a difficult and unattractive area, and dealing with numerous run down and empty dwellings. This redevelopment will present opportunities to engage with many sectors of the community and ensure issues of equality and accessibility are taken into account.

## **Health and Safety**

- 5.1 The risks associated with the issue of the remediation and management of the longer term contamination risks will be mitigated through the formulation of a joint remediation strategy with Keepmoat, with the involvement of Rolls Royce throughout. This approach will lead to an agreed approach to the remediation, for which Rolls Royce will make a payment as agreed in the Collaboration Agreement.

## **Environmental Sustainability**

- 6.1 Through the Delivery Partner Procurement process the Council has sought to procure a delivery partner who will transform the environment of the area by redeveloping the redundant RR landholdings and areas of poor quality housing, creating high quality new dwelling, improving open space and tackling issues of fuel poverty.

In addition, through the procurement of a delivery partner, the success of CESP funding works can be built upon via projects to promote energy efficiency in existing Council and privately owned homes.

## **Asset Management**

- 7.1 The land transferred from Rolls Royce to the Council will immediately be transferred into the JV, thus sharing risk with the Delivery Partner.

In the event that land was unable to be developed by the JV, this would revert to the Council either in a remediated state, or with the Council still holding funds from Rolls Royce to remediate it.

New properties which are subsequently developed will not fall into the ownership of the Council at any time, unless specifically developed with the intention of Council ownership.

## **Risk Management**

- 8.1 The risks associated with this report have been identified prior to and throughout the procurement process. These risks have been mitigated through the design of the JV structure which shares risk, as well as profit, between the Council and the Delivery Partner.

## **Corporate objectives and priorities for change**

- 9.1 This initiative meets all six of the Corporate Plan Objectives by collaborating to bring forward a development that potentially:

- provides new homes,
- improves existing residential properties, especially energy efficiency
- improves access and the public realm,
- provides employment opportunities and accommodation
- improves educational facilities
- develops a model of partnership and delegated power with the community in determining solutions to regeneration issues

Appendix 2

JOINT VENTURE VEHICLE STRUCTURE

