

WINSTANLEY AND YORK ROAD ESTATES REDEVELOPMENT

1. INTRODUCTION

- 1.1 The London Borough of Wandsworth (the "**Council**") has undertaken an OJEU compliant procurement process to appoint a private sector partner to act as its joint venture partner in relation to the regeneration of the Winstanley and York Road Estates (the "**Site**").
- 1.2 Taylor Wimpey (the "**Partner**") has been appointed as the "preferred bidder" and a high level summary of the proposed terms of the JV is set out below. [It is intended for contracts to be entered into on the terms set out below subject to Council committee approval in July].

2. SUMMARY OF PROPOSED JOINT VENTURE

Overview of the JV

- 2.1 For the purpose of the regeneration project, it is necessary to set up a joint venture vehicle (the "**JV**"). The JV is intended to be named the "Winstanley and York Road Regeneration LLP" and is a separate legal entity to the Council and the Partner. The JV will act as the developer and will carry out the regeneration of the Site (with the potential for the contribution of additional land interests as further detailed in paragraph 2.10).
- 2.2 The JV will be a corporate vehicle (a limited liability partnership) in which the Council and the Partner will each hold a 50/50 equity interest (i.e. akin to shares in a company).
- 2.3 The Council and the Partner will jointly manage the JV and its assets and will each be entitled to an equal share of the profits of the JV.

Land contribution

- 2.4 The Council will transfer certain land interests within the Site into the JV by way of long leases, for the purpose of regenerating such land interests, with a view to achieving the Council's objectives as set out in the report by the Director of Housing and Regeneration. Such leases will be on a phase by phase basis and will be subject to the satisfaction of certain pre-conditions to ensure that the land is ready to be developed out before being contributed to the JV. Examples of the pre-conditions to be satisfied include:
- 2.4.1 vacant possession of the relevant phase being obtained;
 - 2.4.2 satisfactory planning permission being obtained;
 - 2.4.3 the agreement by the JV of a business plan;
 - 2.4.4 the JV having the finance in place required to deliver the phase; and
 - 2.4.5 agreed delivery obligations and milestones being achieved for the current phase before the next phase is released to ensure that the momentum of the development is maintained.
- 2.5 Each phase of land transferred into the JV will be on a leasehold basis with a 250 year term.

- 2.6 The development to be delivered on the land interests (to be transferred to the JV by the Council) will comprise of a combination of:
- 2.6.1 units to be developed for sale as owner occupied (or shared ownership);
 - 2.6.2 units to be developed for the private rented sector; and
 - 2.6.3 land to be developed for commercial/community use purposes.
- 2.7 The JV will also be required to deliver various tenures of affordable housing (both affordable rent and ownership) together with a new leisure community and library facility and children's centre, public realm and the re-provision of certain other community facilities.
- 2.8 The JV will also be required to deliver the re-provision of 530 social rent units as new social rented units and up to 86 existing resident leaseholder units as new shared equity units which will be owned by and funded by the Council.
- 2.9 The new leisure community and library facility and children's centre and all public realm (including but not limited to the park) delivered by the JV will be a scheme cost of the JV and ultimately owned by the Council upon completion of the works.
- 2.10 The Council and the JV may elect to include additional land interests in the JV in the future such as Bramlands and other sites which are within the scope of the procurement.

Finance Structure

- 2.11 When the Council transfers land interests into the JV, in return for this investment, the Council will obtain the benefit of a debt instrument known as a loan note. A loan note is effectively a corporate IOU from the JV to the Council promising to repay the value of the land interests transferred to it at a later date and to pay interest on this sum at a specified rate until full repayment has been made. The Council has also incurred costs in relation to the acquisition of third party land interests on the Site ("**Council Advanced Costs**") and will receive loan notes to the value of such costs on day one of the JV.
- 2.12 The Partner will be required to provide matched funding to the JV in respect of the value of the Council's land contributions in addition to the Council's Advanced Costs. The Partner will receive loan notes from the JV in respect of any such funding upon drawdown of such funds by the JV.
- 2.13 In relation to the matched funding element referred to above, the Partner's loan notes will be on the same commercial terms as the Council's loan notes and will rank equally with the Council's loan notes including the specified interest rate applying to such loan notes.
- 2.14 It is envisaged that the JV will require finance from a third party lender/third party lenders in order to undertake its development activities. The Council and the Partner will have the right, at their option, to provide development finance on equivalent terms to a third party lender.
- 2.15 Additionally, the Council will fund the re-provision of 530 social rent units as new social rented units and up to 86 existing resident leaseholder units as new shared equity units which will be owned by the Council and available for existing resident leaseholders.
- 2.16 The Partner will also provide funding of last resort up to a specified limit to the JV where finance is not available from a third party lender in consideration for the issue of

loan notes upon drawdown of such funds by the JV. These loan notes will have an interest commensurate to the risk of providing such finance.

Services and expertise of the Partner

- 2.17 In addition to the contribution of finance, the Partner will be required to provide expertise (or procure the provision of expertise) in respect of the JV's operations as required in order to develop the relevant land interests. This will include the provision of development management services to the JV and construction services to the JV.
- 2.18 The Partner will be providing construction works and services (as main contractor) in relation to certain construction works subject to controls relating to value for money and the satisfaction of key performance indicators with the right to provide construction works/services to be withdrawn where its performance is unsatisfactory.

Governance and Business Plans

- 2.19 There will be different levels of decision making within the JV structure, made up of shareholder level, board level and development manager level to reflect the multitude of key activities to be undertaken by the JV. Decision making by the shareholders and the board will require unanimity.
- 2.20 The JV governance will broadly operate at the following levels:
 - 2.20.1 certain decisions will be reserved to the "shareholders" of the JV (the Council and the Partner). These decisions can be taken in the interest of the Council and the Partner (unfettered by the interest of the JV). An example of such reserved matter would be agreement of the business plans and other key strategic decisions;
 - 2.20.2 certain decisions will be reserved to the board. The board will be obliged to act in the best interests of the JV in making such decisions and will make the key day to day decisions relating to the JV;
 - 2.20.3 certain decisions will be delegated to the development manager. These will be certain routine day to day decisions by reference to financial parameters agreed by the Council and the Partner, for example the appointment of consultants to deliver the development within financial parameters.
- 2.21 The JV will have an overarching business plan to govern the overall development and a phase specific business plan which will govern the activities for each particular phase. The JV will be obliged to act within the parameters of the business plans which will drive the activities of the JV. Any variation to any of the business plan shall require the approval of the Council and the Partner as "shareholders" in the JV.
- 2.22 The overarching and phase specific business plans which relates to the first phase will be in final form and annexed to the contractual documentation at contractual close following consultation with the public.

Conflict in the JV

- 2.23 Certain areas of conflict will be governed by contractual provisions. For example, where the JV seeks to exercise some form of legal right against one of its shareholders the party concerned will be disenfranchised from voting on such matter. For example, in the event that the Partner breaches the construction exclusivity provisions enabling the JV to terminate its exclusive arrangement, the Partner would be excluded from voting on this decision enabling the Council to unilaterally exercise this right.

Deadlock and default

- 2.24 There are agreed mechanisms dealing with deadlock and disputes. This involves a staged level dispute process with mediation provisions. Where the deadlock or dispute cannot be resolved this would either:
- 2.24.1 ultimately lead to the termination of the JV. This will be a controlled process with land interests not contributed at that date remaining in the control of the Council and land interests held within the JV being developed out to realise development proceeds prior to the JV being wound up. In these circumstances, the Council will have the right to acquire sites from the JV prior to the winding up; or
 - 2.24.2 result in the Council acquiring the Partner's interest in the JV where the Council elects at its discretion to do so.
- 2.25 Where there is a default under the main contractual agreements relating to the JV and such default is sufficiently material and is not remedied, it is envisaged that this would have the same consequences as set out above in relation to deadlock.

CPO Costs

- 2.26 The Council has commenced acquiring, and will continue to acquire, third party land interests on the Site which are not in its ownership with a view to obtaining vacant possession over the Site. The Council will be reimbursed for the cost of its acquisitions by the JV. The Council will reimburse the JV where such land interests do not eventually transfer to the JV on a termination scenario (i.e. where the JV is being wound up).

Winding up of the JV

- 2.27 At the end of the term of the JV or once all development activities have been concluded, it will be wound up and its assets will be distributed equally between the shareholders after any other applicable deductions.

3. POWERS

- 3.1 The powers the Council is acting under in relation to its entry into the JV and land transfers into the JV are as follows:
- 3.1.1 Section 1 of the Localism Act 2011;
 - 3.1.2 Section 123 Local Government Act 1972;
 - 3.1.3 Part II of the Housing Act 1985;
 - 3.1.4 Section 233 Town and Country Planning Act 1990;
 - 3.1.5 Sections 8 and 9 of the Housing Act 1985; and

3.1.6 Section 24 and 25 Local Government Act 1988.

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