



PART B:	RECOMMENDATIONS TO COUNCIL
REPORT TO:	POLICY AND RESOURCES COMMITTEE
DATE:	24 JUNE 2010
REPORT OF THE:	HEAD OF ECONOMY AND HOUSING JULIAN RUDD
TITLE OF REPORT:	WENTWORTH STREET CAR PARK, MALTON
WARDS AFFECTED:	MALTON DIRECTLY, ADJACENT WARDS INDIRECTLY

EXEMPT INFORMATION

Exemption Category: Certain information in Annex B of this report is considered to be exempt as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

Reason for Exemption: The information relates to the financial or business affairs of a particular person.

The public interest test has been considered and, in all the circumstances of the case, the public interest in maintaining the exemption is considered to outweigh the public interest in disclosing the information.

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

1.1 To consider outcomes of market testing into prospective sale for redevelopment of Wentworth Street Car Park, Malton, and to approve the disposal of the land through the tendering process as detailed in the report.

2.0 RECOMMENDATIONS

2.1 That Council be recommended to approve:

- (i) invitation to a restricted list of the 7 parties set out in Annex B of this report who have expressed interest in purchase and development of Wentworth Street Car Park and adjoining land to submit informal tenders for a purchase of Wentworth Street Car Park and adjoining land (as shown at Annex C) on the following basis:
 - a) a 250 year leasehold interest will be offered;
 - b) the timetable detailed in this report will be adopted for the process;

- c) the overarching criteria against which the tenders will be judged will be as detailed in this report;
 - d) the Head of Economy and Housing be given delegated authority to draw up the detailed Invitation to Tender document based on the terms outlined in this report.
- (ii) submission of a further report to a Special meeting of Council, following receipt and appraisal of the tenders by an officer panel, recommending a preferred tender and seeking final authority to proceed to sale.

3.0 REASON FOR RECOMMENDATIONS

- 3.1 The market testing exercise that was approved by Council on 9 July 2009 has shown that there is healthy market interest in purchase of the Wentworth Street Car Park and adjoining District Council-owned land for redevelopment, in tandem with provision of a sizable car park to serve both the development and the wider town centre. The sale would lead to a significant capital receipt. This could be used by this Authority to fund capital projects, including regeneration and community projects in Malton and Norton and across Ryedale. This approach is consistent with the efficient use of Council assets and is in line with asset management good practise. The expressions of interest received suggest that the site could accommodate forms of development that would strengthen Malton's role as the rural capital of Ryedale, however these and other planning issues would be assessed through an entirely separate planning analysis of any application submitted for this site.

4.0 PROCUREMENT VS LAND SALE

- 4.1 In deciding what process to follow the Council must first consider the outcome it requires to achieve in the sale of this site and the level of control that the Council wants to exercise over what may happen to the land in the future. It is understood that the Council essentially requires a good return for the disposal of this land to fund other projects but also requires the land to be utilised in ways that are supportive of the objectives of emerging planning policy. Any development of this land must first obtain planning permission and will thus be subject to the full scrutiny of the planning committee. Under the proposals set out below the Council can further provide that if the land is not developed it must be returned to the Council.
- 4.2 On that basis it is considered that a land sale is the most appropriate process to follow. However, in order that the Committee has an understanding of the broader issues, this report indicates how different rules apply to procurement and land use in general terms.
- 4.3 The Council is bound by the Public Contract Regulations 2006 ("the Regulations") that apply where a contracting authority wishes to procure works or services above a minimum threshold value. In those situations the authority must comply with detailed rules set out in the Regulations designed to open up such opportunities to interested parties from across the European Community and to ensure fair competition. Those Regulations include a requirement for the opportunity to be advertised in the official European Journal and there are very clearly prescribed steps to be taken at every stage of the process through to final award.
- 4.4 Further, in December 2009 the Public Contracts (Amendments) Regulations 2009 came into force introducing important new remedies which the UK Government and courts can impose on authorities that are deemed to have infringed the Regulations.

These include a power for a court to declare a contract entered into with a bidder in good faith but without fully complying with the Regulations as “ineffective” or void. Such a declaration could have a significant adverse financial consequence for an authority and accordingly these new regulations taken together with EU court decisions mean that authorities need to take particular care in managing procurement competitions strictly in accordance with the letter of the Regulations.

- 4.5 Where, however, all an authority wishes to do is to sell land to a bidder without prescribing any form of development such a transaction (“a Land Sale”) generally falls outside the detailed Procurement Regulations.
- 4.6 The Council at this stage has the option of either seeking to proceed down the route of a Works Procurement or a Land Sale.
- 4.7 With a Works Procurement it could spell out what it wants a tendering party to provide on the site and can seek to retain control over the timing and manner of development. But to go down this route the Council would need to follow the Regulations strictly. Generally speaking following these rules may be expected to delay the process and significantly increase the cost of the process for both the Council and the bidders who are willing to participate in the process. Experience in other cities and regions show that many bidders simply decide not to enter competitions run under the Procurement Regulations because of the time and financial costs involved and there is thus a real danger that going down this route would involve significant delay and may also reduce significantly the number of bidders who would come forward with proposals for the Council’s consideration.
- 4.8 In the light of the nature of the Council’s requirement a land sale is considered the appropriate approach where bidders are invited to come forward with their own proposals for what they intend to build on the land. Proceeding down this route the Council can still consider in assessing the bids the nature of the proposals each bidder would like to provide and the prospects those proposals have of getting planning permission as those are perfectly proper criteria for deciding which bidder the Council would like to sell its land to.
- 4.9 The Council would then be entitled to rely on exercising its separate planning powers to ensure that the scheme presented by the winning bidder can only proceed if it meets fully the standards that the planning authority would require for the development of this important site.
- 4.10 The Committee is therefore recommended to follow the Land Sale route. Your officers believe that this will deliver the best result for the Council ensuring the most effective competition and ensuring a more timely and less expensive route to deliver the outcome the Council wishes to achieve.

5.0 SIGNIFICANT RISKS

5.1 Procurement Risk

Over the last three years not only have the new 2009 Regulations been introduced but there have also been a spate of legal decisions in the European courts where authorities have been challenged for not following the Procurement Regulations in circumstances where they should have done. It is therefore important that if the Council determines to take the Land Sale route outlined in paragraph 4 then the decisions it takes and the way it runs the tender which is intended to lead up to the Land Sale must be structured as a Land Sale and the Council needs to avoid the

risk of straying into territory where it could be challenged for “dressing up” what is really a Works Procurement as a Land Sale.

5.2 Mixed Messages

There has been much debate both by the public and Members about the advantages and disadvantages of redevelopment of this area of land. There is a risk that the Council’s reputation would suffer if its considerations are not comprehensive or its decisions not fully explained. In addition serious expressions of opposition by Members could concern prospective developers and adversely affect land value and timings.

5.3 Fair Competition

Irrespective of whether the Council goes down the Works Procurement or Land Sale route the Council is obliged to act in a fair and transparent manner in its dealings with third parties. This means that if it is to run a tender competition for the sale of this land whether formal or informal it must be transparent in spelling out the rules for the competition and then abide by those rules when it comes to judging the competition. If in judging the competition other considerations not set out at the outset were taken into account an aggrieved bidder could properly challenge the Council for acting in an unfair manner which has prejudiced that bidder’s chances in the competition.

5.4 Best Consideration

In disposal of most of their property assets local authorities are required to seek “the best consideration that can reasonably be obtained”. In deciding what is the best consideration for land the Council is entitled to consider not only the price being offered but what the land will be used for so that the overall benefit to the Town and its residents is taken into account and not just the price. Further the disposal may proceed at less than best consideration if the difference between the “unrestricted” and “restricted” value is not more than £2m. Otherwise the consent of the Secretary of State is required. The risk for the Council is non-compliance with these requirements unless due care is taken in the exercise.

5.5 Mitigation measures proposed to be adopted are (see Annex A):

- to seek legal opinion of the proposals in the report to ensure that EU regulations are not breached;
- the tender evaluation and appraisal process will take account of the need to satisfy “best consideration” requirements;
- rules for the tender, the criteria to be applied in assessing bids and the weighting to be given to those criteria should all be specified in the Invitation to Tender document and fairly used in assessing bids once received;
- Council consideration is conducted in public, any final decisions will be subject to public scrutiny in the usual way and, as no development can be undertaken without planning consent being granted, the public consultation exercises which form an important part of the entirely separate planning process will ensure full public awareness and participation.

6.0 BACKGROUND AND INTRODUCTION

6.1 Following consideration of a report by Policy and Resources Committee on 25 June 2009 and a recommendation to Council (Minute 17), Full Council resolved (Minute 22d) on 9 July 2009 ‘*That expressions of interest be invited for the purchase and redevelopment of either the whole or part of the Wentworth Street Car Park Site (as shown on the plan at Annex A to the report) for future use, and that following the*

receipt of such expressions, the matter be referred back for consideration.' The report considered by Members proposed that *“developers are advised that the Council’s consideration, as landowner, of submitted proposals will include reference to the following factors, in addition to the value that would be raised through the land asset:*

- *The amount and type of parking to be provided, including during construction – proposals should support the vitality of the wider town centre and encourage linked trips to retailers and services in Malton and Norton;*
- *The wider regeneration benefits for Malton town centre;*
- *The integration of the scheme with the town centre and the urban design and transport impacts;*
- *The extent to which the proposals can help achieve benefits for the local economy and community.*

6.2 All these factors can be taken into account in assessing the bid that the Council wishes to accept in a tender run to secure a Land Sale. However, the Council will independently assess them in its capacity as planning authority when the successful bidder makes its planning application.

6.3 On 15 December 2009 Council considered a report upon the Local Development Framework (LDF) that included various references to food and non-food development in Malton and approved preferred options for the Core Strategy for consultation.

6.4 This report advises Members of the actions that have since been taken and sets out the next steps.

7.0 POLICY CONTEXT

7.1 To create the conditions for economic success is one of the five priority aims of this Council, and this aim includes objectives of creating opportunities for people and for economic activity and infrastructure. The Service Aims for Economy and Housing include ‘Enable economic activity and support transformational projects’, under which are a range of projects to enhance economic activity and service provision at Malton and Norton and the other market towns. These include currently unfunded projects. Any capital receipt obtained from this site has the potential to support projects that deliver each of the Council’s priorities, including meeting housing needs and a maintaining a high quality sustainable environment.

7.2 The Council also has responsibilities as a local authority landowner to ensure best utilisation of its assets. Government guidance to local authorities on asset management advises local authorities to “ensure that they secure better value for money whilst making more effective use of their asset base as the foundation for delivering high performing public services” (Building on Strong Foundations - A Framework for Local Authority Asset Management - DCLG - Feb 08). The Framework also makes clear that “Effective asset management plays a major role in delivering better outcomes for citizens, creating a sense of place and generating efficiency gains. Asset management should underpin, and contribute to, delivery of the local vision and priorities as set out in the Sustainable Community Strategy, the Local Area Agreement and the Local Development Framework.” Furthermore, “Not only are local authorities expected to achieve sustainable communities, but they must do so in the most efficient way possible. Local authorities are encouraged to rethink the mechanisms by which services are delivered and release inefficiently used capital and revenue, which can then be reinvested in public services” (Local

Authority Asset Management Best Practise, RICS 2009). The Audit Commission (Room for Improvement, 2009) warns that, in the current economic climate, councils will need to do far better in managing their assets, if they are to achieve expected savings and maintain services in the coming years.

- 7.3 Whilst the planning assessment of any application or LDF submission for the Wentworth Street site is an entirely separate process to the sale of Council owned land, that process will take into account decisions made regarding the emerging Ryedale LDF at Full Council on 15 December 2009. These include that Malton and Norton should be the district's principal town and first in the hierarchy for housing, employment and retail development. Consultation on the LDF will take place on the basis of Malton and Norton accommodating at least 50% of housing development in the LDF period, plus 80% of Ryedale's employment development and 70% of retail development.

8.0 CONSULTATION

- 8.1 The entirely separate process of assessing any planning application and / or LDF submission regarding this site will take account of consultation previously undertaken regarding Malton town centre, including the extensive consultation regarding the Malton Town Centre Strategy and the Ryedale Retail Capacity Study. Any planning application that followed acceptance of a tender for this site would require a pre-application consultation by the applicant and additional consultation as part of the application consideration. Similarly, any LDF proposals for this site would require public consultation and offer the potential for consideration at a Public Examination.

9.0 REPORT DETAILS

- 9.1 An advertisement was placed in The Estates Gazette inviting interest from potential developers in the opportunity which the site provides. A healthy response to this advertisement was received and this enabled discussions to be held with a number of experienced developers, who acted for a variety of potential clients with a requirement for Malton. These discussions showed that developers were interested both in the Car Park and in a smaller area of adjoining land owned by the District Council on the north-western edge of the Car Park. The subsequent expressions of interest received reflect this and this area is proposed to be included within the area for which tenders are now invited. The Council is working with existing tenants to ensure their satisfactory relocation.
- 9.2 All the expressions of interest received included proposals for supermarkets of different scale, design and quality, mostly in conjunction with other forms of development. As required each has included an initial assessment of the car parking numbers. The schedule attached (marked as EXEMPT) at Annex B provides an overview of the various indicative proposals, including proposed car parking. Although these proposals are only indicative and the levels of parking vary this shows that the majority of bids actually involve an increase in car parking numbers currently available at the site - providing a good degree of confidence that car parking numbers can be maintained or increased through disposal and subsequent development of the site.
- 9.3 The interested companies have indicated the likely level of offer they would be able to make and outlined their development proposals if invited to tender for the land. It is consequently possible to expect that sale would achieve a substantial capital

receipt. This could help the Council to deliver a number of desired projects or used for match funding and a development that should help meet the emerging aspirations of the Council as set out in the Ryedale LDF and the Malton Town Centre Strategy.

- 9.4 Now that a detailed market research exercise has been undertaken, Members are in a position to consider with confidence, as owner of the land, that a successful tender exercise could be undertaken that should result in a substantial capital receipt. Further, the likely consequence of such a sale would be a redevelopment which, subject to planning consent, accords with the aspirations of the emerging Ryedale LDF and the Malton Town Centre Strategy.
- 9.5 The components of the tender process would be:
- tenure
 - offer price
 - other considerations:
 - development proposals, including car parking issues
 - deliverability
 - buy back.

Timeframe

- 9.6 The best timeframe that could be envisaged following the Land Sale route is:
- Submission of final tenders by 17 September 2010;
 - Appraisal and evaluation of tenders by officer team;
 - Report to Special meeting of Council (to be held by 30 November 2010) for approval of preferred tender and authority to proceed to sale;
 - Negotiation and exchange of land sale agreement (which is likely to be conditional on the grant of a mutually satisfactory planning consent) by 31 January 2011.
- 9.7 The purchaser would then be able to finalise and submit a detailed planning application for consideration in the usual way by the Council as local planning authority. Provided that planning consent is obtained the disposal would be completed and the sale consideration paid to the Council.
- 9.8 The companies who have expressed an interest have all indicated that they can meet the suggested deadline for submission of tenders, despite the timetable being tight and including the summer holidays.

Tenure

- 9.9 Disposal of land can be undertaken on either a freehold or leasehold basis. There are a number of advantages and disadvantages of each and the particular circumstances of each transaction need to be considered. Where the vendor has no interest in the parcel of land or property once he has disposed of his interest and has achieved the full value, a freehold disposal is usually best. Where, however, the vendor has a continuing interest consideration should be given to a leasehold disposal. In particular where there are conditions imposed by the vendor these are more easily enforced by way of the covenants in a lease than by the enforcement of restrictive covenants in a transfer.
- 9.10 In the present case it is considered that a leasehold disposal should be undertaken so that enforcement of conditions in the disposal (such as the continued use of part

of the site for public car parking pending redevelopment) is easier to achieve. An additional benefit would be the fact that the Council as freehold reversioner could reserve the right to be consulted about any future redevelopment of the site.

- 9.11 As part of the review of the received expressions of interest, each party who expressed an interest has advised that they would be willing to proceed on the basis of a long leasehold. A number of the interested parties have commented that they would be prepared to proceed on a 125 year term basis and others on a 250 year basis. The main issue is the approach that funders might have towards the length of term. As the rationale for a leasehold sale is principally the ability to enforce any long term occupational covenants, the length of term is of secondary importance to the Council. It is consequently suggested that a 250 year term is acceptable.
- 9.12 It is clear that the parties that have expressed an interest in the Site would all be prepared to make a better offer to the Council if their offer is conditional upon them securing an acceptable planning permission for the scheme they have in mind. There is an additional benefit to the Council in agreeing to this. If the purchaser does not get planning permission for their scheme ownership of the Site reverts to the Council. It is recommended therefore that the Site is offered for sale conditional upon planning permission being applied for and granted within a reasonable period.

Offer Price

- 9.13 In consequence of the development risks which a developer faces between the date it commits to buying a site and the date it is finally able to sell the investment created by building and letting a scheme, a developer is often willing to propose a two part consideration for the land made up of a fixed sum payable upon transfer of the site and an overage payment which is usually a percentage of the final development profit. If an overage is offered it is possible that the fixed sum may be less than would be the case without an overage arrangement but, if the scheme is profitable, combining the Land Sale price with overage can lead to a higher return for the Council in the long term. Some developers are however uncomfortable with overage arrangements as they can be complicated and expensive to agree. It is proposed for the tender process that bidders be invited to put forward offers either on the basis of a fixed consideration alone or with an overage. Their tenders will need to describe the mechanics and elements of the overage to enable comparisons to be made in the tender appraisal.

Other Considerations

- 9.14 In order to appraise the tenders there are a number of other factors that will need to be taken into account and the tenderers required to set out in their bids:
- Development Proposals – in assessing the bids the Council will want to form a realistic assessment of the prospects of the bidder's proposals obtaining planning permission. As proposed in the June 2009 report the tenders should set out the nature of their proposals for the site including the extent of car parking provision.
 - Deliverability – whilst the Council will not be prescribing any particular form of development or programme for that development, it is entitled to ask the bidder to spell out its experience, track record and likely source of funding for carrying out the development and its intended programme as these are relevant factors in determining what is likely to be the outcome for the town if that particular developer's offer is accepted.

- 9.15 As indicated above when proceeding down the Land Sale route the Council cannot seek a legal commitment from the bidder to carry out a particular development within a particular timeframe. However there is authority and Government guidance which suggests that an authority can impose a term in a sale contract which would provide that if the parcel of land sold has not been redeveloped within a particular timeframe then the Council should have the right to buy back the site at a future date. It is recommended that such a term should be a condition of this sale. The period of time allowed for the developer to carry out its development should not be too short as there is a risk that this would have a significant adverse impact on the price a developer would be willing to pay for the site. It should be seen only as a long stop measure of protection for the Council.
- 9.16 Eight detailed expressions of interest (from seven parties) were received and have been appraised in accordance with the 25 June resolution. One was based upon a development proposal that is clearly undeliverable due to its floorspace requirement which substantially exceeds the maximum threshold for retail (convenience) floorspace as set out in the Town Centre Strategy and LDF. As there are no overriding reasons for elimination of any of the other interested parties it is proposed that the developers identified in Exempt Annex B be invited to submit formal tenders.
- 9.17 Before embarking on a Land Sale by way of tender a decision is required whether formal or informal tenders should be invited. A formal tender process is a very tight and rigid exercise with limited opportunity for exploration by discussion with the tenderer of their proposals. Its focus would be the land price and all parties would be committed once the tender has been accepted. It would effectively prevent bidders from coming forward with innovative financial proposals that the Council might find attractive. An informal process is more flexible and would allow more clarification of details and possible improvement to the proposals. Legal commitment to the tender would not occur until an agreement for lease has been completed. It is proposed that the informal tender arrangement is more appropriate in this case and that all eight parties that expressed an interest in response to our original notice should be invited to participate.
- 9.18 In order to ensure that the Council complies with its obligations to run a fair and transparent competitive process, that it receives an equivalent level of information from each bidder which is sufficient to enable it to fully understand the bidder's proposals and to ensure that the timetable suggested above is achieved, the Council needs to explain very clearly in the Invitation to Tender document the criteria being used to assess and measure bids. It will then need to ensure that in considering the bids those criteria, and only those criteria, are used to measure and compare the bids and select the preferred bidder. Many authorities have been successfully challenged where they have embarked on a competition on the basis of one set of rules and then been influenced in judging the competition by other considerations.

- 9.19 It is therefore proposed that the overarching criteria and weighting for the Land Sale tender should be agreed as follows:

Criteria

- Price;
- Development proposals: what is the nature of the proposal and how likely is it to get planning permission? This will also involve a consideration of the effect of the bidder's scheme on the provision of public car parking;
- Deliverability; how confident can the Council be that what the bidder proposes will happen within a reasonable timeframe?

Weighting

It is proposed that scores should be weighted 60:40 (Price to Other Factors) and that the Other Factors should be divided as follows:

- Development proposals 30
- Deliverability 10.

- 9.20 Tenders will be appraised by a panel of officers from: Corporate Management; Economic Development; Finance; Property; and Legal, on the basis of the criteria set out in the Invitation to Tender document. The tenders will go through an initial compliance test prior to being fully appraised. The tenderers which pass that test will be invited to give presentations of their proposals to the panel which will then complete the appraisal exercise and reach a conclusion based on the above criteria and weighting for recommendation to an Special meeting of Council.

10.0 IMPLICATIONS

10.1 Financial

Disposal of Wentworth Street Car Park would generate a significant capital receipt for the Council. This could be reinvested in other capital projects e.g. economic development / regeneration priorities at Malton / Norton and elsewhere in Ryedale. In contrast, disposal of the car park would result in around £40K p.a. of lost net revenue for the Council. The Council is working with tenants of the Site to ensure their satisfactory relocation. This is not anticipated to lead to a material change in Council income.

10.2 Legal

It is important to ensure that the roles of the Council as vendor and planning authority are fully separated in this exercise. The Council as vendor may not influence the planning process in any way.

Procurement issues are another area for caution. It is important to recognise that a simple disposal by way of a Land Sale is being proposed and that the Council's control over the final details of the development scheme are by way of the planning process. If the Council wishes to seek a legal commitment from a buyer to carry out a particular development within a set timeframe then the scheme will be caught by the EU procurement regulations. Advice from the Office of Government Commerce states that "*where a contracting authority invites a developer or developers to submit their own proposals for the use or development of land or buildings, (competitively or otherwise) but without itself specifying the requirement, the public procurement rules may not apply, even if the contracting authority chooses the "winning" proposal (according to broad criteria pre-determined by the authority).*" Note the use of the words "**may not**" rather than "will not". If the Council's actions were challenged on the grounds that this transaction amounted in truth to a procurement of works

dressed up as a Land Sale all the circumstances including minutes of Council meetings could be reviewed to ascertain the real nature of the transaction. In the case of Wentworth Street Car Park it is not intended that the Council specifies the type of development, only the broad criteria against which the informal tenders will be judged, and so officers consider that provided that the recommendations set out in this report are followed the public works procurement rules will not apply.

10.3 Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)

There are some ongoing issues with anti-social behaviour at Wentworth Street Car Park and the Safer Ryedale Partnership works with the District Council and others to manage these. If the result of the sale is the redevelopment of the site then that would have the potential to reduce these problems and crime related aspects of the proposed design would be assessed in relation to any subsequent planning application.

10.4 There are potential implications for the extent of staff support required if there were to be no District Council involvement with the future management of the car park. The implications for parking provision would be assessed as part of analysis of formal bids for the site.

10.5 In considering this report the Committee is not discharging the Council's role as a Local Planning Authority but it is discharging the role of the Council as a landowner of Wentworth Street Car Park. There will be an entirely separate role for the Council as local planning authority in assessing any planning applications and / or LDF submissions that may arise as a result of the proposed property transaction.

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Background Papers:

- 'Wentworth St Car Park' report and minutes, 25 June 2009 P&R Committee 2009 and Full Council 9 July 2009
- 'Malton Town Centre Strategy & Accompanying Development Briefs' report, Policy & Resources Committee, 2 April 2009 (Minute 397 & Minute 10a of Full Council 21 May 2009 refers).
- Building on Strong Foundations - A Framework for Local Authority Asset Management - DCLG - Feb 08.
- Local Authority Asset Management Best Practise, RICS 2009.
- Room for Improvement, Audit Commission, 2009

Background Papers are available for inspection at:
<http://democracy.ryedale.gov.uk/uuCoverPage.aspx?bcr=1>

WENTWORTH STREET CAR PARK - RISK MATRIX – ANNEX A

Issue/Risk	Consequences if allowed to happen	Likelihood	Impact	Mitigation	Mitigated Likelihood	Mitigated Impact
Failure to comply with EU Procurement regulations	Adverse audit report Delays to project	4	D	Obtain legal opinion and amend process if necessary to avoid breach of regulations	2	A
Failure to satisfy s.123 Local Government Act 1972 “Best Consideration” requirements.	Judicial review Adverse audit report Legal action by dissatisfied parties Payment of compensation Delay to project	3	D	Ensure final decision takes the requirements fully into consideration.	1	A
Fair Competition	Legal challenge with associated potential delay and cost	3	D	The rules for the tender, the criteria to be applied in assessing bids and the weighting to be given to those criteria to be specified in the Invitation to Tender document and fairly used in assessing bids once received;	2	A
Conveyance of mixed messages	Reputation of council suffers	3	C	Ensure considerations and decisions taken in open sessions and subject to scrutiny in the normal way. As no development can be undertaken without planning consent being granted, the public consultation exercises that form an important part of the entirely separate planning process will ensure full public awareness and participation.	2	B