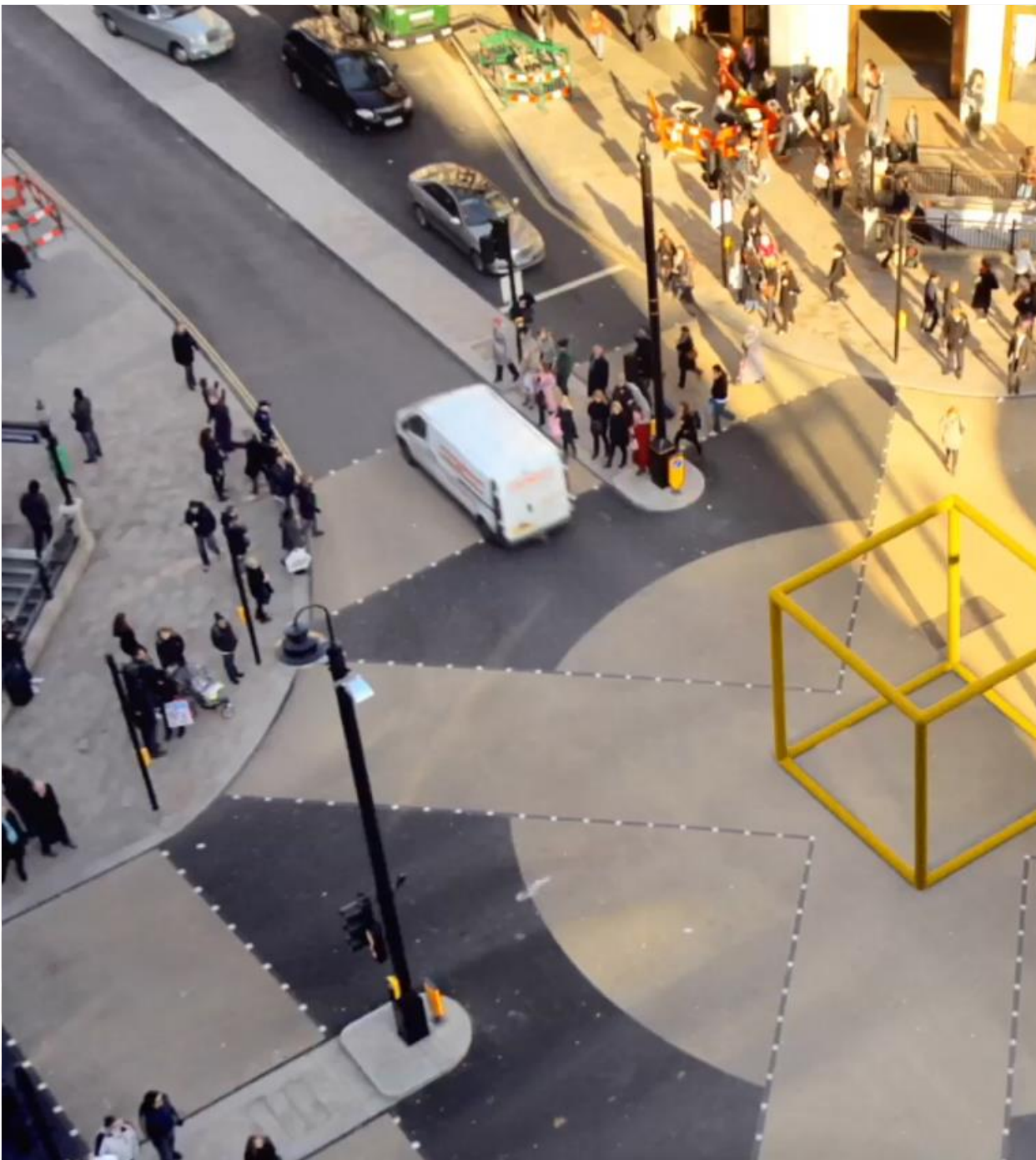


Tower & Ashbourne Main Works Procurement Strategy Workshop

18th June 2020



1. Welcome – Tower & Ashbourne – A Reflection
2. Procuring a High Rise Residential Building (HRRB) Scheme in 2020
3. Procurement Options
4. Contract Structure
5. Form of Contract
6. Building a Safer Future
7. Our Requirements
8. Procurement Milestones
9. Any Other Business

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Welcome

Tower & Ashbourne – A Reflection

- Bring SBC's procurement and legal teams up to speed with the development
- Run through our thoughts on procurement strategy and discuss key questions
- Reach conclusions based on relevant experience/knowledge based discussions
- Rules:
 - All participants join the workshop with an open mind
 - All questions are important, please ask as we go through
 - Be respectful of each other
 - Work collaboratively

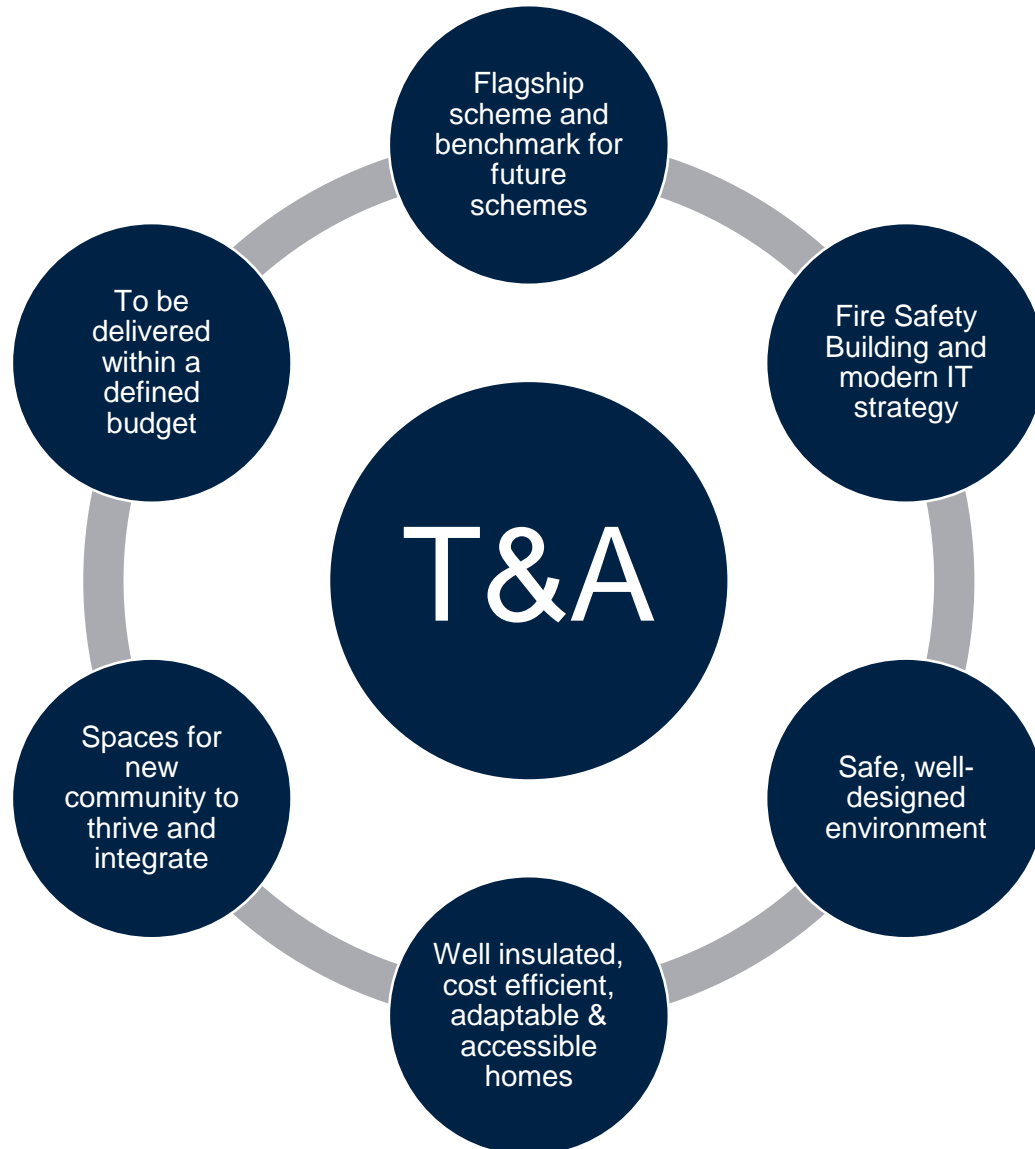
Tower & Ashbourne – our scheme



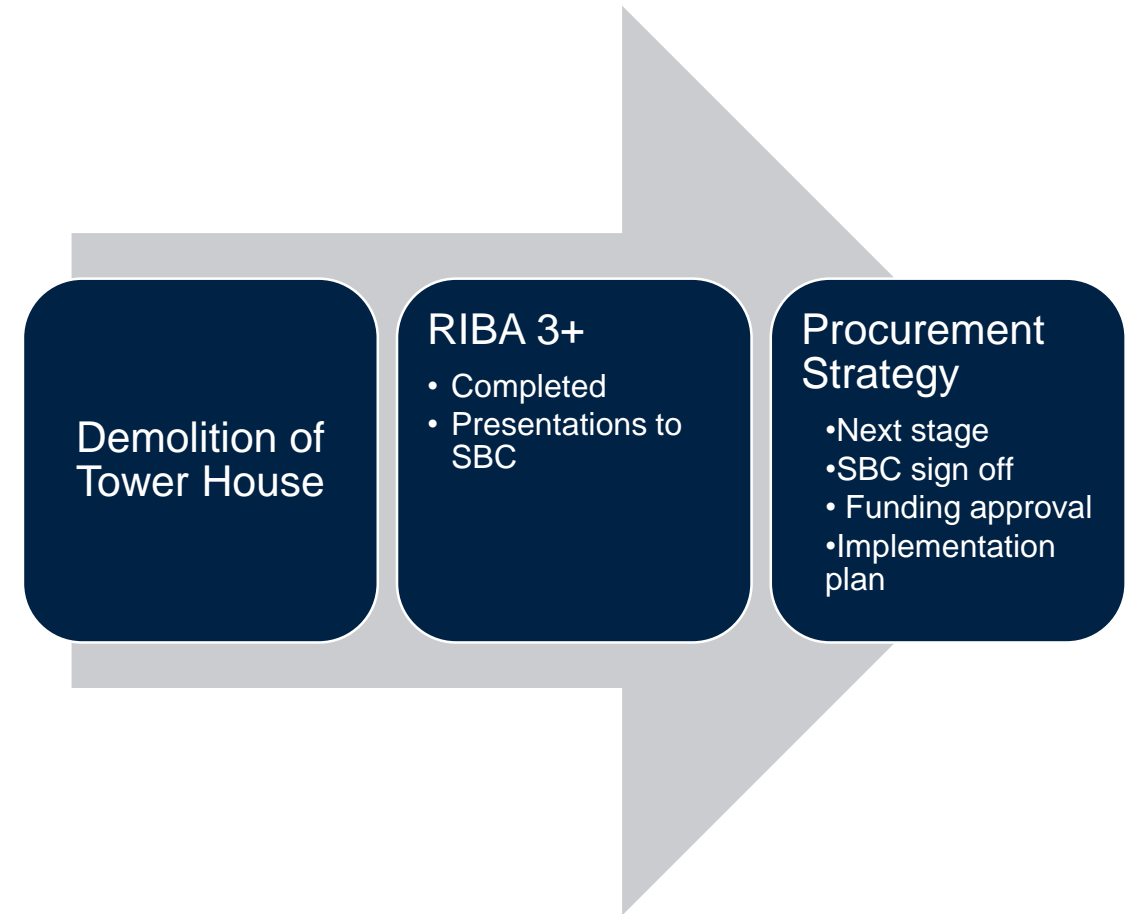
- Estate redevelopment
- 193 new affordable rented homes
- 1,2 & 3 bedroom flats and maisonettes
- 5% wheelchair accessible homes
- Designed to Stage 3+
- Extensive landscaping
- 110 car parking spaces
- Secure bicycle storage for all homes
- L&G funding (with some top up)
- Current cost plan - £51.9m
- Service diversions, 1 x CPO, High Voltage Cable diversion, S278 works



Tower & Ashbourne reflection



Current Position



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Procuring a High Rise Residential Building in 2020

Since the beginning – a lot has happened



What are reasonable assumptions?



Area	Key risks and considerations	Action / Mitigation
1. Economic	Covid 19, Brexit, recession, skills shortages, inflation, pricing fluctuations, insurance exclusion clauses	Contract clauses prior to tender Collaborative arrangement as things may change! Good client / experienced collaborative contractor
2. New regulatory reform	Retrospective, gateways, duty holders, new building safety regulator, safety case, building safety certificate, in occupation regime with 5 year testing	Build into contract & T&C's Market engagement prior to procurement exercise Form of contract to reflect collaboration and necessary experience
3. Funding	What will L&G's regime require? Other funders?	HoT's in place, negotiations in hand to establish regime Place outcome into tender docs Costs are reduced by programme reduction

What are reasonable assumptions?



Area	Key risks and considerations	Action / Mitigation
4. DATA	Digitization requirement by Hackitt, golden thread Reasonable, audit trail, right data for Gateway 3	BIM level 2 requirement (Tier 1 contractors all do this already) Creation of a project platform storing data in one place, meeting criteria
5. CPO	Covid-19 impact on Counsel hearing – possible delay of 6 months	Progression of scheme in conjunction with agreement with lawyers
6. Common project failures	Bankruptcy, poor quality, delays, client variations, supply chain issues, design issues, weather, utilities	Contract – reasonability, risk management, KPI's, good team, CoW, client governance, use pre-construction to de-risk, enforcing good payment terms

Where do these risk areas sit?

Project Risks

Economic

Regulatory Reform

Funding

Data/digital

CPO

Common project failures



Pre-tender/Post Tender

Pre – tender (Contract Clauses)

Pre- tender (Contract Clauses)

Pre-tender (Contract clauses)

Pre – tender requirements

N/A – lawyers advice

Pre – write into contracts

Procurement Risks

Not achieving:
the right contractor the right price
In time for funding

Not dealing with project/pre-tender
risks

Not engaging with the market early (its
free but must do after PIN)

Not being open to looking at
innovative solutions to risks, e.g.
project insurance and using
collaborative contract terms

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Procurement Options

Rebecca Rees

SBC has two options to procure Tower & Ashbourne development

1. A regulated OJEU compliant procedure
 - Open
 - Restricted
 - Competitive dialogue/Competitive Procedure with Negotiation (CPN)
2. Or, call off from existing OJEU compliant framework agreement

But we must have competent experienced contractor of HRRB

Minimal timescales because of risk of increased funding and build costs

Have no procurement challenges at award

OJEU Compliant Procedure

- **Open** – ‘take it or leave it’
Single stage for simple works, risk of lots of bidders therefore could be lack of interest from market (too many bidders)
- **Restricted** – ‘take it or leave it’
Selection stage – can shortlist to ensure experience
- **Competitive Dialogue / CPN** –
sessions and negotiation, has to meet criteria to use, usually to answer a question that the scheme needs e.g. design solution, can be high tendering costs for bidders, not usual for scheme at advanced design/post planning stage, how to measure against bidders and remain absolutely fair and transparent, can be lengthy, must take meticulous records to in case losing bidder challenges procurement process

Award off an existing OJEU procured framework

- There are numerous existing frameworks, very few for HRRB housing because the market is used to JV's & DA's
- Due to nature of the scheme, current risks and required experience we chose two, Procure partnerships and DPP3
- **Procure partnerships** – only 8 suppliers, can't expand, regional, 1% levy, only OH&P. Not all usual HRRB contractors on this list
- **DPP3** – housing specific framework, no levy, 35 suppliers but a lot are developers, no difference in timeline to restricted in reality, T&A must fall within permitted scope, have to use T&C's and unclear if L&G would approve

We have recommended:

OJEU restricted procedure

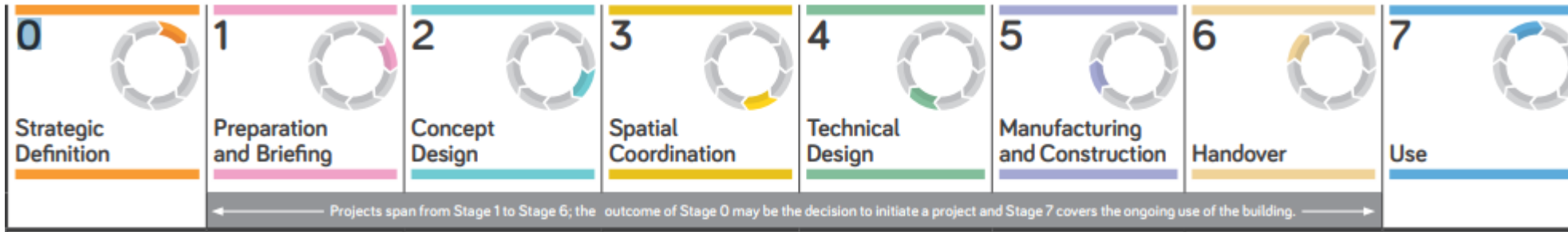
- Design is sufficiently developed
- Key risks and issues can be dealt with pre-tender
- Competitive Dialogue/CPN is costly, time consuming, heavy in resourcing, if not run effectively tightly can introduce caps and qualifications
- Open procedure is a free for all and would be time consuming to evaluate, no ability to SQ

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Contract Structure

Chris Donachie

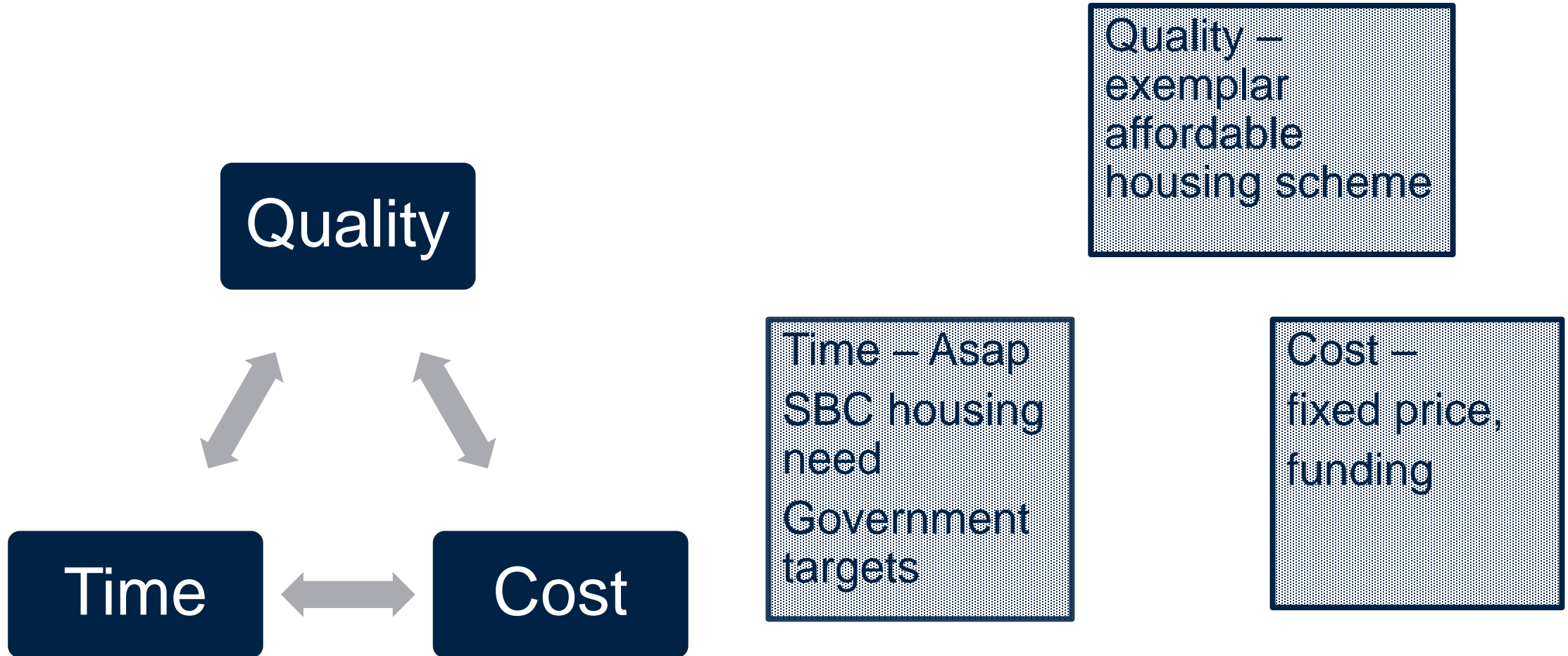
Current Stage RIBA3+



We are here

- We have a part BIM level 2 design
- NBS specification
- ER's
- Cost Plan
- Construction Programme

Finding the best solution for competing objectives



Where does the risk profile sit?

- Traditional - Design risk sits with client, design needs to be taken further into RIBA, with full B of Q
- Design and Build – most common for this type of scheme, contractor holds ultimate design risk (we've taken design further 3+ to protect from contractor reducing quality at the same time as being compliant with ER's

What would be most advantageous and acceptable to the funder?

Our recommendation – Design & Build

Traditional – provides quality but did not transfer the risk profile or speed of programme

D&B – deals with quality through 3+ and robust set of ER's

There are two types, depending on the economic market they fall in and out of favour:

- **Single stage**
 - Used when scheme is adequately progressed to protect quality/meet objectives 'take it or leave it' – fixed price, risk fixed
 - May be variations – has to be compliant
 - We feel it will be more competitively priced and receive a better response from the market
- **Two stage**
 - Used to develop design – T&A sufficiently developed but will have some changes
 - most risky for contractors (not full appointment) and less attractive to the market at the moment, was very popular because it enables contractors to build up costs for stage 2,
 - no cost certainty for SBC at tender – target cost plan, can delay work if design development increases past project budget

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Form of Contract

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Three standard forms (all will need amending to some extent)

1. JCT D&B 2016
2. NEC 4th Edition
3. ACA Standard Form of Project Partnering Contract (PPC)

Considerations:

- Familiarity
- Building Safety Bill requirements will continue and be retrospective
- Future residents are key feature of new bill and requirement (handover)
- We have some risks – we want collaborative behaviours built in
- We want fairness if there are delays not just contractor profit on delays
- We'll need LAD's and probably retention and performance bond/warranties

- We want early warning and deal with disputes at the time not at the end of the contract – with no amendments this eliminates JCT.
- NEC costs more to administer, focus is on process and administration – can add 5% onto professional fees.
- We want the ability to form a core team that discuss and agree issues – PPC has this built in.
- We want cost certainty - guaranteed price at tender – all contracts provide this.
- We would like innovation – PPC is single stage but has preconstruction activities to allow enabling works, design development and value optioneering, the price could go down but it can't exceed GMP at tender.

Our recommendation

- PPC 2000 – team have used and are familiar. Can have LAD's, retention, bonds & all other appropriate protection for the client, has been used extensively in housing. Collaborative approach with strong client lead will be essential, the use of PPC will set the tone going forward. Early indications that L&G will be happy with this form of contract and in line with HoT's

To summarise why not JCT or NEC:

- JCT a common contract but in order to achieve client requirement of collaboration and transparency doesn't have a good early warning mechanism, it would need fundamental change and legal cost. We must be able to control costs because of funding/budget constraints
- NEC – highly administrative, for a scheme of this size a tool to manage the timescales would be needed, needs a lot of client input and quick decision making, 5% increase in professional fees, not usual in housing, good for civils works where work is built up and lots of changes are required, processes are geared for this
- To cover everything, Bespoke contract – high legal costs to set up, will be based on above anyway, will take time to gear up both client/professional team to administer correctly

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Building a safer future

Rebecca Rees

Timeline to legislation

July 2017 – Grenfell Tower fire

May 2018 – Hackitt Review published

June 2019 – “Building a Safer Future” consultation commenced

14 October 2019 – Queen’s Speech 2019 announced Building Safety Bill to be brought forward

30 October 2019 – Grenfell Inquiry Phase 1 Report findings published

12 December 2019 – General Election

2 April 2020 – MHCLG response to the June 2019 consultation

Summer 2020 – Building Safety Bill to be laid before Parliament

Overall call: don’t wait for legislation to start doing something...

What is the new regime?

- Will cover “in-scope” buildings (18m or more or more than 6 storeys – “whichever is reached first”)
- New-build and major refurbishments requiring planning permission
- Gradual roll-out for existing buildings in occupation
- Potential extension of regime to other non-residential buildings where people sleep (eg hospitals, prisons)
- Introduces established concepts from outside the sector:
 - “duty holder”
 - “safety case”
 - “golden-thread of data”

Also introduces Regulator and sanctions

- Proposals introduce a “safety case” approach
- Three Gateways for design and construction and occupation of in-scope buildings and major refurbishments:
 1. Pre-planning
 2. Pre-construction
 3. Pre-occupation
- Duty holders must demonstrate to Regulator that building safety has been managed before project is permitted to move to next Gateway
- Apply to all multi-occupied residential buildings of 18 metres or more in height or more than six storeys (whichever is reached first)

Gateway 3: pre-occupation stage

At the final completion certificate/notice stage under building regs

BSR must be satisfied before building is occupied

Duty holders will need to provide Client with information to demonstrate “the case for safety” for occupation and safe management of the building including:

- Updated as-built plans indicating agreed variations
- A complete Construction Control Plan
- Updated fire and emergency file
- Complete key dataset

Client, PD and PC will be required to produce and co-sign a final declaration that the building complies with Building Regulations

Partial occupation allowed but should form part of the design strategy from the outset and suitable fire management strategy pre-occupation will be required.

No legal occupation until Building Registration Certificate issued

Competency Framework: practice areas

Draft Competency Frameworks available for these practice areas:

- Engineers
- Installers
- Fire Engineers
- Fire Risk Assessors
- Fire Safety Enforcement Officers
- Building Standards Professionals
- Building Designers
- Building Safety Managers
- Site Supervisors
- Project Managers
- Procurement
- Products

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Our requirements

What we need

Contract, can SBC supply:

- Boiler plate clauses
- Process clauses (need team discussion/agreement)
- Bonds, warranties
- Bribery, slavery policies etc
- Copy of standing orders
- Copy of contract rules (evaluation of contracts over £x values that apply to T&A) – need to establish quality / price split, we have recommended 60%/40% respectively – must not reduce quality to lower than 60%

Procurement – insurance

Discussion on best way to deal with contractor's ability to get PI insurance particularly around certain parts of design/construction e.g. cladding and consideration of performance bonds/PCG

Discussion regarding roles in procurement of T&A - once agreement of strategy, is there further sign off once tender pack is completed? Or during process?

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Procurement Milestones

Jane Cranitch

Procurement timetable with milestones

Activity	No. of days	Programme timescale
Agree procurement strategy and receive SBC's standard documents, Stage 3B client review and sign off		29/06/20
Prepare contract documents: Update ER's, draft contract documents, T&C, novation agreements, contract particulars, compile supporting documents, draft ITT	25 days	4/08/20
SBC review and sign off documents	5 days	11/8/20
Prepare first stage procurement - pre-selection SQ and IM, draft contract notice, PIN and prepare market testing	10 days	25/8/20
SBC review and sign off documents	5 days	2/9/20
Publish Contract Notice, carry out market testing (review feedback and make adjustments if required), expressions of interest	45 days	4/11/20
SQ evaluation, select tender list, recommendation report to SBC	18 days	30/11/20
SBC approval and issue Regulation 55 letters to all applicants	5 days	7/12/20
Invitation to tender, mid tender briefing, clarifications	40 days	10/2/21
Tender evaluation, selection, recommendation report	35 days	31/3/21
SBC review and sign off documents	30 days	17/5/21
Contract Award and standstill	11 days	1/6/21

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Any Other Business

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Any

Other

Business?

Thank you
