



## **ADVANCED PUBLICATION OF REPORTS**

This publication gives five clear working days' notice of the decisions listed below.

These decisions are due to be signed by individual Cabinet Members and operational key decision makers.

Once signed all decisions will be published on the Council's Publication of Decisions List.

1. **ORBITAL BUSINESS PARK MEANWHILE USES** (Pages 1 - 92)
2. **PROPOSED MARKETING AND LEASEHOLD DISPOSAL OF WHITEWEBBS PARK GOLF COURSE.** (Pages 93 - 104)
3. **PROCUREMENT OF EXTERNAL LEGAL ADVISORS FOR THE MERIDIAN WATER PROGRAMME** (Pages 105 - 114)

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**MUNICIPAL YEAR 2018/2019 REPORT NO.****ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY**

**PORTFOLIO DECISION OF:**  
Leader

**REPORT OF:**  
Executive Director - Place

<b>Agenda – Part: 1</b>	<b>KD Num: 4802</b>
<b>Subject: Orbital Business Park Meanwhile Uses</b>	
<b>Wards: All</b>	

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**1. EXECUTIVE SUMMARY**

- 1.1 On 25th July 2018, Cabinet authorised the Meridian Water Employment Approach report (KD 4717), including the meanwhile programme for Meridian Water.
- 1.2 At that meeting Cabinet endorsed pursuing the option to work with Broadwick Venues Limited / The Vibration Group to develop proposals for the Orbital Business Park Sheds and the IKEA Clear Site.
- 1.3 Officers have been in negotiations with Broadwick Venues Limited/Vibration Group and this Report now sets out the recommended option for meanwhile use at the Orbital business park vacant sheds and the Ikea clear.
- 1.4 Part 2 of the report seeks authority to enter into an agreement for lease with Broadwick Venues Limited once the conditions associated with the agreement for lease are satisfied, to enter into the Lease agreement as set out in the Heads of Terms.

**2. RECOMMENDATIONS**

- 2.1 To note the placemaking and socio-economic benefits of the proposal.
- 2.2 To delegate finalising the Heads of Terms, subsequent lease and other legal documents with Broadwick Venues Limited to the Programme Director of Meridian Water and the Director of Law and Governance (or Legal Services on his behalf); and
- 2.3 To delegate to the Programme Director of Meridian Water and the Director of Law and Governance (or Legal Services on his behalf) the negotiation with Dwyer's to approve the entry by the Council into an agreement for lease and subsequent lease with Broadwick Venues Limited on the terms set out in the Heads of Terms in the form attached at Appendix 2.

### **3. BACKGROUND**

- 3.1 Meridian water, located in the South East of Enfield, is one of London's most exciting regeneration and development opportunities.

The site is covered by light industrial uses and big box retail outlets. The Council has a strong vision for Meridian Water as a vibrant mixed-use environment with up to 10,000 homes, thousands of new jobs and new facilities such as; schools, restaurants, shops and hotel.

- 3.2 Pivotal to the Council's ambition for Meridian Water is the need to tackle the deprivation which persists in the neighbouring Edmonton wards which are amongst the 10% most deprived nationally. The council is determined to address this as part of the process of redevelopment to maximise the benefits for Enfield residents.

- 3.3 Local communities will benefit from growth through training, employment and support to local business to compete for new opportunities; and strategic investment in the area's infrastructure.

#### 3.4 Meanwhile use programme

- 3.4.1 In July 2018 Cabinet noted the Meridian Waters Employment principles and agreed both short term and long-term visions, priorities and identified a series of projects. A report will be taken to Cabinet in July 2019, that will set out the next stages of delivery.

- 3.4.2 Cabinet gave a clear mandate to proceed with key meanwhile projects that help generate income for the Council and support placemaking activity. In this report, the term 'meanwhile use' refers to the short-term use of temporarily vacant land and or buildings prior to permanent development.

- 3.4.3 The Council's approach is to work with several operators to deliver temporary projects across the site, make efficient use of land and create short to medium-term employment opportunities. Meanwhile and placemaking activity will help support the step change away from light industrial and warehouse uses and encourage the natural development of community, culture and commerce.

#### 3.5 Opportunity site

- 3.5.1 Significant progress has been made by the Council to ensure that the site is primed for delivery, this includes the acquisition of 68% of developable land at Meridian Water. The scale of land and buildings in council ownership offers a significant opportunity for the council to start to deliver on the employment vision from the outset

- 3.5.2 The first opportunity, Units 4,5,6,9, 9a are for the Orbital business Park together with front and rear forecourts are currently vacant. The architecture of the large blue warehouse units presents a unique offer with; high roof heights, 7,000sqm of interconnected column free spaces, large loading doors and concrete floors.
- 3.5.3 To secure the acquisition of the Orbital Business Park in December 2015, the Council entered into an Option Agreement with Dwyer the previous land owner. As per the agreement, the Council must secure their consent to grant new leases on the option area which includes Units 4B, 5, 6, 9, 9A. The site was earmarked for the Building BloQs project. This makerspace project has moved to another location within Meridian Water. Dwyer have confirmed they will provide consent for Leasing the sheds to Broadwick.
- 3.5.4 The second opportunity meanwhile site; 'Ikea Clear', is immediately to the south and comprises a site of approximately 10.4 acres of scrubland. Due to the shallow soil contamination, the site will require a cover layer to prevent exposure to future site users.
- 3.5.5 In July 2018 Cabinet endorsed option to develop proposals for the vacant Orbital business park units and Ikea Clear that generate income and nurture an exciting range of temporary uses from the outset such as; festivals, pop up shops, music workshops and creative start up studios, to help animate these key sites at the centre of Meridian Water and pave the way for future permanent inhabitants.
- 3.5.6 The Orbital Business park will ultimately need to be demolished to make way for the strategic road network, a park and residential led mixed-use development. There is a window of opportunity c. 26 months to secure meanwhile uses on the Orbital Business Park and Ikea Clear sites until they are due to be required for the HIF infrastructure works in Summer 2021.
- 3.7 Contracting party
- 3.7.1 Broadwick Venues Limited sit under the Vibration group umbrella of creative event businesses and specialise in the development and operation of award winning festival brands and campaigns. In July 2018 Cabinet endorsed a recommendation to scope the opportunity to work with the 'Vibration Group' who are industry leaders in commercial, meanwhile and cultural placemaking to develop proposals to activate the vacant Orbital Business Park units and the IKEA clear site.
- 3.7.2 The success of the project relies on utilising the resource and unique suite of 'in-house' services Broadwick Venues Limited offer. Entering into direct contract with Broadwick Venues Limited provides certainty in the negotiation and delivery of the project.

3.7.3 For clarity, the legal contracting party will be Broadwick Venues Limited and for the purposes of this report, shall henceforth be referred to as Broadwick.

### 3.8 Portfolio of projects

3.8.1 Some of Broadwick's notable projects include;

#### 3.9 The Printworks, Canada Water

3.9.1 The former printing factory for the Evening Standard Newspaper was converted into a 119,200 sqm multi-purpose event space with a 6,000 capacity and a 2am licence at the weekends. The venue's carefully curated cultural programme includes immersive productions from the Royal Ballet, club nights and family friendly events that attract hundreds and thousands of visitors. Printworks has quickly gained international acclaim since opening in February 2017. The venue continues to increase footfall to Canada Water, generate considerable PR and helps change perceptions of the area supporting its regeneration.

#### 3.10 Battersea Power Station:

3.10.1 Broadwick worked closely with Wandsworth Council to breathe life back into this iconic landmark. They helped transform the derelict shell of Battersea Power Station into a global destination and over a four year period have attracted 500,000 in footfall, generated by private and large public events.

#### 3.11 Leeds dock:

3.11.1 Broadwick wrote and delivered a site wide placemaking strategy that transformed the perception of the destination within the city, established it as a thriving and innovative cultural destination, fostered and grew it as a community, and positioned it as a desirable location for business, leading to full ground floor tenancies within one year

#### 3.12 The proposal

3.12.1 The proposal for Meanwhile use at the Orbital opportunity site will be a catalyst to establish Meridian Water London's most exciting new cultural destination. The proposal is for the Council to lease the sheds and Ikea Clear land to Broadwick Venues Limited for up to 3 years. In turn they will retain the current building and capitalise on its industrial aesthetic, transforming the vacant warehouses into an internationally recognised, bustling cultural centre.

3.12.2 London's new cultural hub will feature a year-round programme of;

- Live Performance,

- DJ's
- Art Installations
- Theatre & Immersive Shows
- Film Studios
- Conferences
- Brand Experiences
- Corporate Events
- Outdoor Festivals
- Community Activity
- Family Friendly Experiences
- Food & Drink

3.12.3 As part of the proposal, Field Day festival is proposed to take place on the opportunity site on Friday 7th June 2019 and Saturday 8th June 2019. Field Day is an established live music festival in London. The festival took place for 10 years at Victoria Park in Tower Hamlets, before moving to Brockwell Park in Lambeth for the 2018 event. The festival will significantly increase the number of visitors to Meridian Water with a projected capacity of 50,000 attendees over the duration of the two day event.

3.12.4 The new Meridian Water station is due for completion in May 2019. The West Anglia Mainline service will be operational for the duration of the event and Broadwick are in advanced discussions with Greater Anglia and Network Rail to run an additional special shuttle service using the STAR line to Stratford, to service the festival. There are contingency plans in the event that the rail is not ready.

### 3.13 **Terms and conditions of engagement**

3.13.1 To scope the potential of the project, Cabinet agreed an exclusivity period to explore the feasibility of such a project carry out due diligence, agree a business plan and to resolve project logistics. In particular;

- Broadwick have submitted a robust business plan, that supports the Council's meanwhile and placemaking objectives. They have demonstrated an ability to capture market share in commercial placemaking, positioning the project to succeed.
- Parties have agreed key aspects of project delivery including; timescales and dependencies, resource, delivery of works, costing work schedules, project financing and draft Heads of Terms.
- Parties have carried out due diligence and captured risks, anticipated impact and developed measures to mitigate and manage them.

Finally, scrutiny of the project finances demonstrates adequate financial resource to deliver the project and an appraisal of the overall deal establishes that the proposed letting represents 'Best consideration' for the Property as it achieves significant short-term savings for the Council and develops placemaking activity.

### 3.14 **Steps so far**

3.14.1 Since Cabinets endorsement in July 2018, Officers have been working with Vibration Group and have progressed a number of requirements, these include:

- Heads of Terms looking to complete a lease
- Landlords works to make the site accessible and safe for occupation are underway
- Broadwick Venues have submitted a change of use planning application
- The Council has submitted a planning application in relation to capping works to the IKEA Clear site
- Premise Licence Application has been submitted
- Discussions are well developed with Greater Anglia to provide a special rail shuttle services.

3.14.2 Delegated Authority is sought as part of this report to allow the Programme Director of Meridian Water and the Director of Law and Governance (or Legal Services on his behalf) to finalise the Heads of Terms, the Lease and any other legal matters that finalises the partnership with Broadwick Venues.

## 4. **ALTERNATIVE OPTIONS CONSIDERED**

### 4.1 **Do nothing**

4.1.1 Units 4,5,6,9 and 9a of the Orbital Business Park and Ikea Clear remain vacant and the Council suffers loss in rental revenue. In addition to void payments of for service charges, insurance and security. The Council also loses out on any potential Placemaking benefits.

### 4.2 **Traditional letting**

4.2.1 Let the buildings to businesses in a similar fashion to the historic warehouse use. Once a letting is secured, subject to the financial status of the tenant, the income is guaranteed.

4.2.2 Disadvantages of a traditional letting are as follows;

- Low likelihood of obtaining a consent from Dwyer's
- There is the possibility of a long void before a letting is secured;
- Because of the condition of the units, a longer rent-free period is possible;
- No place making benefits.

Refer to Part 2 of the report for further details.

## 5. REASONS FOR RECOMMENDATIONS

5.1 Cabinet agreed an exclusivity period to scope the feasibility of this proposal. The wider opportunities that arose for use of the site were evaluated against the Meridian Water meanwhile and placemaking objectives. The table below provides an overview of the degree to which each of the proposed uses contributes to those objectives. It provides a quick litmus test against which we can measure opportunities from all angles.

5.2 The three use options were scored against their compatibility with the Meridian Water meanwhile objectives. The scores indicate;

- Score of 1 indicates poor compatibility
- Score of 2 indicated fair compatibility
- Score of 3 indicated good compatibility
- Score of 4 very good compatibility
- Score of 5 indicated excellent compatibility

*Table 3: Proposed use compatibility with Meanwhile objectives*

Meanwhile Objectives	Broadwick Venues Limited proposal	Film Studios	Industrial Use
Changing perceptions	3	2	1
Increase Awareness	5	2	1
Increase footfall	5	2	1
Complementary Uses	4	3	3
Benefits for local people	4	3	2
Jobs/Employment	2	2	3
<b>Total out of 30</b>	<b>23</b>	<b>14</b>	<b>11</b>
<b>Compatibility Percentage score</b>	<b>77%</b>	<b>47%</b>	<b>37%</b>

5.3 In summary the advantages of the proposed letting are set out below, it should also be noted that the Council are pursuing an opportunity to accommodate a film studio within other buildings that don't require Dwyer's consent.

- Advantage of the regeneration and placemaking opportunity of the site.
- The Council recovers its costs as a minimum inclusive of security cost savings;

- There is a possibility of a greater income if the tenant has higher revenues/lower costs than forecast;
- Most likely to achieve Dwyer's consent, consent to the proposed lettings has provisionally been received from the former owner;
- The proposed disposal represents best consideration for the property

## **6. COMMENTS FROM OTHER DEPARTMENTS**

### **6.1 Financial Implications**

Refer to Part 2 of the report

### **6.2 Legal Implications**

**Dated 7<sup>th</sup> March 2019**

**MD**

**6.2.1** The Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles.

**6.2.2** Any acquisition or disposal of property (including by way of lease) must comply with the Council's Property Procedure Rules. It is proposed that the Council make an "off-market" disposal to Broadwick Venues Limited. To comply with the Council's Property Procedure Rules, any such disposal must be subject to a report prepared by the Responsible Senior Officer (as defined in the Property Procedure Rules) and approved by the relevant Cabinet member setting out justification for such disposal as being in the best interests of the Council. Such report must contain written advice (including a market valuation) from an external registered valuer. A copy of the valuation is appended to the Part 2 Report.

**6.2.3** With regard to the Orbital Business Park sheds, the Council must be mindful of and continue to comply with its obligations under the Dwyer Option agreement. In particular:

- (i) there is a prohibition on the Council creating any new lease or other right of occupation (other than by way of a building licence) over the sheds which are the subject matter of this report. The Council must therefore obtain the express consent of the option holder prior to entering into the agreement for lease with Broadwick Venues Limited; and
- (ii) the Council must use all reasonable endeavours to comply with the planning requirements set out in the Option Agreement by December 2019 and, within three years of the date on which the planning obligations are satisfied or waived, complete the required remediation works on the Option site. Officers must

therefore ensure that vacant possession of the sheds is obtained in good time to fulfil this obligation.

**6.2.4** The Council should consider the adequacy of its insurance provision in light of the proposed new use of the sheds and IKEA clear site.

**6.2.5** Any procurement of works or services required as a result of the subject matter of this report must comply with the Council's Contract Procedure Rules and, where applicable, the Public Contracts Regulations 2015.

**6.2.6** It is proposed that a Memorandum of Understanding will be entered into between the parties to record social benefits that are to be delivered by the tenant as part of this transaction. A memorandum of understanding is usually expressed to be non-legally binding. Further advice should be sought from Legal Services to ensure that any such agreement is in compliance with procurement legislation (if applicable).

**6.2.7** Any legal agreements to be entered into as a consequence of the subject matter of this report must be approved in advance of completion by Legal Services on behalf of the Director of Law and Governance.

**6.2.8** See Part 2 of the report

### **6.3 Property Implications**

Please see Part 2

## **7. KEY RISKS**

Refer to Part 2 of report

## **8. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD**

### **8.1 Good homes in well-connected neighbourhoods**

**8.1.2** The GLA on behalf of Enfield Council submitted a Housing Infrastructure Fund (HIF) bid to the Ministry of Housing, Communities and Local Government for £156m, to forward fund necessary infrastructure across the Meridian Water site.

**8.1.3** The funding will unlock the delivery of up to 10,000 homes by supporting rail improvements to increase service frequency to enable 6-8 trains per hour at Meridian Water station and the delivery of a range of strategic infrastructure including site remediation, pedestrian and cycle links, bridges, flood alleviation and landscaping etc.

**8.1.4** To support the business case, the Council must demonstrate the demand for an increased train frequency to stakeholders. The

proposed use will bring hundreds and thousands of visitors to the site a year, a large portion of which will use the Meridian Water station. Uses such as this are strategic to support the developments long term vision of a well-connected community.

## **8.2 Sustain strong and healthy communities**

8.2.1 Some of the factors that underpin strong and healthy communities can be categorized as physical and non-physical.

8.2.2 The long-term development of the site will address some of the Physical factors which include; decent and affordable housing, access to opportunities, high quality public services, good quality and sustainable public realm and good transport connections.

8.2.3 In the short to medium term, meanwhile use of the site will support the establishment of some of the non-physical factors that promote healthy communities. Some of the non-physical factors include; safety, local social networks, social inclusion and spatial integration, cultural heritage, a sense of belonging and identity, and well-being.

8.2.4 Meanwhile use will address these by;

- Providing opportunities for people to meet, improve wellbeing and reduce loneliness,
- Strengthening civic society by increasing volunteering and promoting community cohesion and reducing social exclusion.
- Helping smooth the transition for local communities and give them a platform and voice to shape emerging development proposals.
- The proposed cultural use and associated community initiatives will also instil a sense of community ownership and place identity.

## **8.3 Build our local economy to create a thriving place**

8.3.1 The Councils vision for Meridian Water is to create a vibrant and truly mixed-use environment with up to 10,000 homes, thousands of new jobs and facilities. Carefully curated meanwhile uses will provide an opportunity for early wins by quickly bringing life and activity to the area before permanent development begins and boost the local economy. The proposal will diversify the cultural and entertainment offer in Enfield and encourage the establishment of a night time economy. The proposed creative use will have a transformative impact on the local economy by creating job opportunities and career pathways in culture and events management sector. The increased footfall, hundreds of thousands of people a year, will drive up revenues for local businesses such as those with a food and beverage offer.

## **9. EQUALITIES IMPACT IMPLICATIONS**

- 9.1 An initial assessment indicated this no discrimination or adverse impacts on the protected characteristics:
- Age
  - Disability
  - Gender Reassignment
  - Marital and Civil Partnership
  - Maternity and Pregnancy
  - Race
  - Religion or Belief
  - Sex (gender)
  - Sexual Orientation
- 9.2 Broadwick Venues Limited will be required to comply with standard Equality Act requirements in order to prevent any discrimination based on these characteristics.
- 9.3 As part of the licensing process, they have planned for pick up and drop of points within proximity of the event that will include a provision for parking for Blue Badge holders throughout the duration of the events, including during the set up and dismantling phases. Field day festival is an over 18 only event. This is permissible under the Equality Act 2010 as it ensures the health and safety of customers and protects the welfare of minors.
- 9.4 Broadwick Venues Limited have a track record of hosting events that have attracted a significant number of attendees, from a diverse range of backgrounds. The proposed events provide a significant opportunity to foster good relations between groups who share a protected characteristic and those who do not.

**10. PERFORMANCE AND DATA IMPLICATIONS**

Indicators of success for the project include short term gains such as increase in footfall, number of arts/ culture events held, number of marketing and social media campaigns/ articles that help change perceptions of the area; combined with longer-term benefits such as uplift in land value which are hard to quantify during lifespan of the project. A framework will be developed to measure the social value and the socio-economic benefits that this proposal brings.

**11. PUBLIC HEALTH IMPLICATIONS**

Meanwhile uses should help to increase the wealth and prosperity of the Meridian Water area and encourage business development. The effect on the health of the public will depend upon what those uses are, how they are implemented and to what standards. These should include considerations of environmental health as well as restricting smoking, sensible drinking, healthy diet and maximising physical activity as an integrated part of everyday life.

**Background Papers**

*Report 1 Appendices: Site plan and site images*

## Appendix 1 Site Plan Orbital Business Park

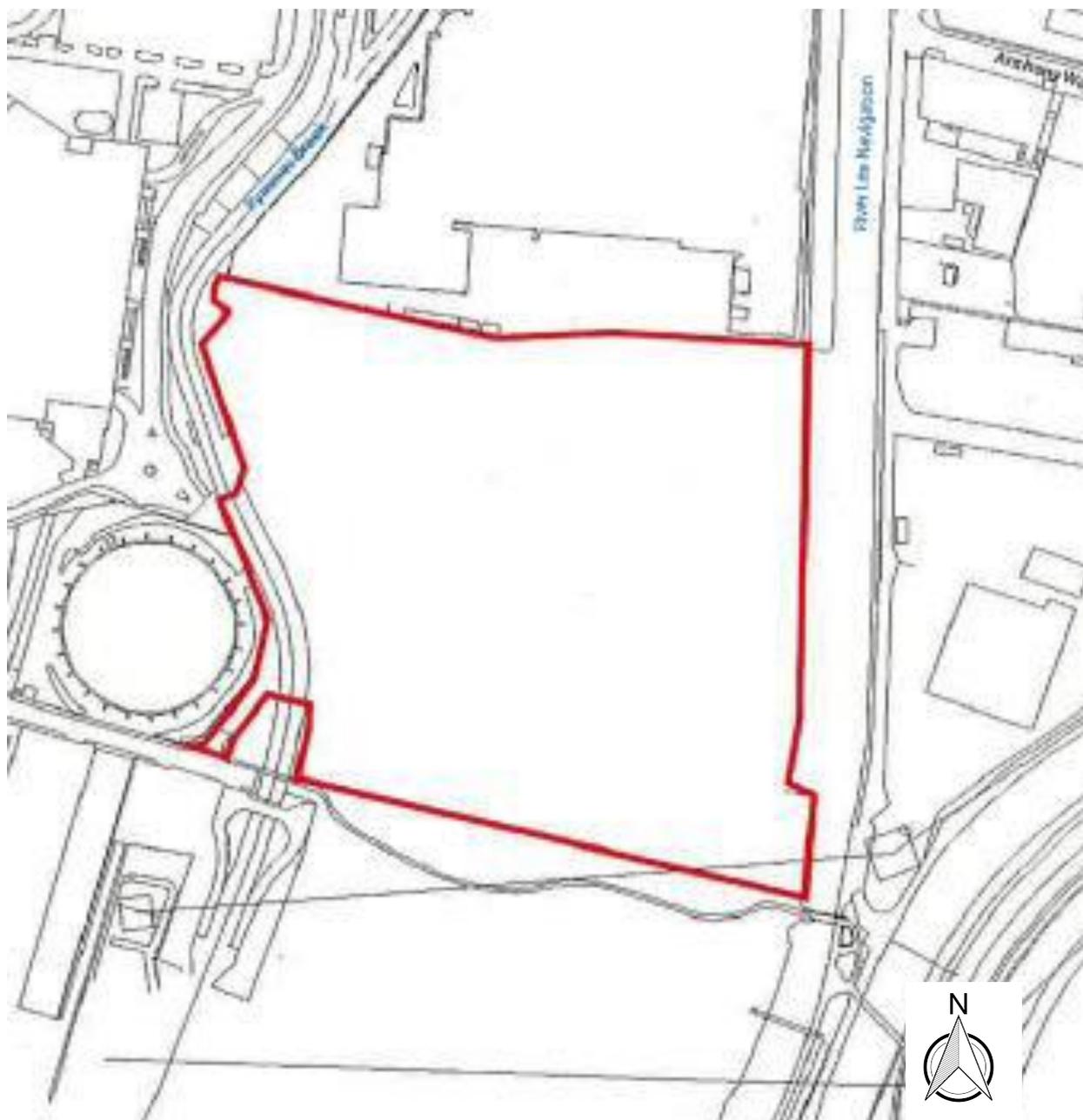
The opportunity area comprises two distinct adjoining sites. It firstly comprises Units 4, 5, 6, 9 & 9a of the Orbital Business Park industrial estate together with front and rear forecourts edged red on the estate plan below and the Ikea Clear site.



**Table 1: Gross Internal floor**

Unit	Sq M	Sq Ft
4a/4b	1,783	19,190
5	2,691	28,961
6	1,516	16,318
9	866	9,323
9a	262	2,816
<b>Total</b>	<b>7,117</b>	<b>76,608</b>

**Appendix 2 Site Plan Ikea Clear (Not to scale)**



### Appendix 3: Site images



Estate Road looking towards Argon Road



Estate Road looking towards Units



Front Elevation to Units 4 and 5



Forecourts to the front of Units 5 and 6



Pymme's Brook Bridge



Ikea Clear Site

### Appendix 3: Site images



Unit 5 Internal



Unit 9 Internal

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of the Local Government Act 1972.

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**MUNICIPAL YEAR 2018/2019 REPORT NO.****ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY****PORTFOLIO DECISION OF:**

Cllr Ahmet Oykenner - Cabinet Member for Property and Assets

**REPORT OF:**

Executive Director of Place

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Agenda – Part: 1

KD Num: 4849

**Subject: Proposed marketing and leasehold disposal of Whitewebbs Park Golf Course.**

**Wards: Chase**

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**1. EXECUTIVE SUMMARY**

- 1.1 This report requests that the Council takes a more flexible approach to marketing and agreeing the property transaction of Whitewebbs Golf Course, with the intention to re-purpose this challenging property and optimise delivery of the Council's Corporate Objectives.
- 1.2 The Council operates Whitewebbs Park Golf Course, which does not currently recover operating costs. The property has significant challenges, including, but not limited to, Green Belt planning designation and licensing restrictions.
- 1.3 A marketing process was previously undertaken in 2017 to award a lease for Whitewebbs Park Golf Course. Following a review, the award of the lease was halted in 2018, as although the transaction was undertaken within the Council's Property Procedure Rules, it did not optimise the delivery of the Council's wider corporate objectives.
- 1.4 See Part 2 report.

**2. RECOMMENDATIONS**

It is recommended that the Cabinet Member for Property & Assets:

- 2.1 Agrees to the proposed marketing and disposal process described within this report, for Whitewebbs Park Golf Course.
- 2.2 Delegates the authority to the Director of Property & Economy to instruct the Director of Law and Governance to draw up legal agreements for a suitable property transaction for Whitewebbs Park Golf Course.
- 2.3-2.4 See Part 2 report

### **3. BACKGROUND**

- 3.1 Whitewebbs Park Golf Course, is located at the northern border of Enfield and is a 103 acres, 18 hole golf course with club house and pro shop. The golf course, which does not recover its operating costs, is laid out over undulating parkland, but requires significant investment to bring it back to modern standards. The course has two basic club houses, one of which is dilapidated, a pro shop and a mobile catering concession, which is contracted until March 2020. There is significant competition, with 19 golf courses within a 20 minutes' drive from Whitewebbs Park.
- 3.2 In 2017, Property Services undertook a marketing exercise to award a lease for Whitewebbs Park Golf Course. It was stipulated within the marketing offer, that a part golfing use of the site was to be retained.
- 3.3 Following a review of the terms of the proposed lease for Whitewebbs Park Golf Course in November 2018, the award of the lease was halted due to identification of several key issues. The key issues which were considered to be not being in the Councils best interests were:
- The length of the proposed lease
  - The type of use proposed in terms of long-term viability
  - Likelihood of planning consent being granted
- 3.4 It is proposed that a new marketing exercise is undertaken to award a lease for Whitewebbs Park Golf Course. To maximise the level of commercial interest in the Whitewebbs, the Council will not restrict bidders to golfing use only of the site but will encourage a creative response to the opportunity, which will provide both a positive financial outcome for the Council and be beneficial for the local community.
- 3.5 Commercial Services will work alongside SPS, to manage the project. A cross Council project team has been formed to efficiently deliver the best holistic solution for the disposal of the asset. The team comprises of officers from:
- Strategic Property Services (SPS)
  - Commercial Services
  - Operational Services
  - Legal Services
  - Finance
  - Development Control
- 3.6 Heads of terms and leases will be drafted and included in the marketing pack to expediate the completion of the lease. Planning statements will be prepared by LBE's Planning Service, advising bidders of all planning restrictions. Full due diligence will be undertaken for all of the assets and bidders advised on all other known site issues.
- 3.7-3.8 See Part 2 report
- 3.9 Due to the specialised nature of the property, a commercial property agent will be appointed, to undertake the marketing of the assets. The agents will provide in-depth knowledge and expert advice for entering specific markets.

Evaluation of the bids received will be undertaken by the internal team comprising of officers from Commercial, Property and Planning, to optimise the delivery against wider Corporate Objectives and in compliance with s.123 of the Local Government Act 1972. The evaluation criteria will take into account financial returns as well as economic, social and environmental well-being criteria, to obtain the optimum result for the Council and the local community.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 The Council could do nothing and continue to operate Whitewebbs Park Golf. However, without significant inward investment, the site would continue to operate at a loss and continue to deteriorate.

#### **5. REASONS FOR RECOMMENDATIONS**

5.1-5.2 See Part 2 report

- 5.3 It is expected that the new tenants will invest to re-purpose and modernise the asset and as a result improve facilities and accessibility for the local communities and increase footfall across the site.

#### **6. COMMENTS FROM OTHER DEPARTMENTS**

##### **6.1 Financial Implications**

6.1.1 See Part 2 report.

##### **6.2 Legal Implications**

6.2.1 Pursuant to section 123 of the Local Government Act 1972 when granting a lease a Local Authority needs to demonstrate that they have obtained the best consideration reasonably obtainable. The tendering exercise to be carried out by Property Services in respect of the proposed lease should demonstrate that this has been achieved.

6.2.2 The tendering process is scheduled for around May/June 2019 and should be in accordance with the Council's Property Procedure Rules.

6.2.3 The formal granting of the leases shall be in a form approved by the Council's Director of Law and Governance.

6.2.4 In accordance with the Council's Property Procedure Rules, given the cumulative value of the term of the lease, approval of the award of the Lease will be required from the Council's Director of Resources.

6.2.5 The recommendations contained within this report are within the Council's powers and duties.

6.2.6 The Council recognises that Transfer of Undertakings (TUPE) 2006 Regulations (TUPE) is likely to apply to the transaction and will constitute a 1st generation transfer as the transferring employees are direct employees of the Council (Regulation 3(1)(b)(i)). The Council must ensure that it adheres to TUPE and carries out all required obligations in relation to the transaction.

### **6.3 Property Implications**

- 6.3.1 This report has been co-authored by the Commercial team and Strategic Property Services team. Property implications are therefore embedded within the body of this report.

### **6.4 Procurement Implications**

- 6.4.1 As this is a property transaction it will be undertaken in accordance with the Councils Property Procedure Rules and suggested recommendations as contained in this report. Therefore there are no procurement implications.

### **6.5 HR Implications**

- 6.5.1 The above proposal could constitute a service provision change under the TUPE regulations. Should this be a TUPE situation staff directly employed by the council and assigned to the provision of these services would be entitled to transfer to the successful applicant with their current terms and conditions intact. There are currently seven officers directly employed who are eligible to transfer.
- 6.5.2 The TUPE regulations require consultation to take place with the relevant trade unions and staff impacted by the transfer at the earliest opportunity.
- 6.5.3 Formal consultation will be led by the Council as the “transferors” in the transfer arrangements. The successful applicant will need to notify the Council of any intended “measures” they propose to take as a result of the transfer and will be expected where possible to support and engage in the consultation process with the staff and trade unions. Under TUPE regulations staff who transfer have their terms and conditions of employment protected and it should be noted that these can only be changed in very limited circumstances.
- 6.5.4 Should the successful bid not be related to golf course use nor feature a pro golf shop or similar retail venture, it is possible that the seven officers directly employed in provision of these services will be in a redundancy situation.
- 6.5.5 Staff directly affected should be made aware of this proposal and also receive regular updates from their service managers.

## **7. KEY RISKS**

- 7.1 Planning constraints may result in some submissions being discounted due to proposed uses inability to comply with planning control. Planning statements will be prepared and included within the marketing process, to ensure bidders are fully aware of the restrictions on development.
- 7.2 Insufficient interest is received leading to a lack of bids for the asset. The project team will: undertake early market engagement to ensure all potential bidders are made aware of the opportunities; appoint specialist property marketing agents; and provide fluid terms, for up to 25 years, to attract long term investments and maximise the level of interest in the sites.
- 7.3 Concern around proposed changes, from existing users of the Golf Course, if the new tenant proposes alternative uses to the existing golf provision. Consultation will be undertaken with relevant community stakeholders. The

project team will work with corporate communications, to ensure that public relations for the project effective and transparent.

7.4 See Part 2 report.

## **8. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD**

### **8.1 Good homes in well-connected neighbourhoods**

8.1.1 The granting of a lease for Whitewebbs Park Golf Course will support re-generation within the borough, by allowing investment for the property to be developed and managed by an experienced tenant, who will provide wider leisure activities and opportunities to all within the diverse community of Enfield.

### **8.2 Sustain strong and healthy communities**

8.2.1 The potential investment in Whitewebbs Park Golf Course, will result in modernised leisure facilities within the borough. It is anticipated that this will create a safe and enjoyable meeting point for adults and children, whilst providing all year-round leisure activities in the local neighbourhood and increase the footfall across the sites.

### **8.3 Build our local economy to create a thriving place**

8.3.1 The income achieved from leasing Whitewebbs Park Golf Course will assist the sustainable economic growth for the Authority, as well as potentially creating a boost to the local economy and local employment.

## **9. EQUALITIES IMPACT IMPLICATIONS**

9.1 Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report.

## **10. PERFORMANCE AND DATA IMPLICATIONS**

10.1 The projects to take the assets to market will be managed by Commercial and Strategic Property Services. If leases are awarded they will be managed by Strategic Property Services.

## **11. PUBLIC HEALTH IMPLICATIONS**

11.1 Should the Council gain an income from Whitewebbs it will allow it to provide or support other services for Enfield residents. The exact implications for the health of the public though will depend on the final use of this land.

### **Background Papers**

None

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**MUNICIPAL YEAR 2018/2019 REPORT NO.****MEETING TITLE AND DATE:****Agenda – Part: 1****Item: KD 4777****OPERATIONAL  
DECISION OF:**Director of Law and  
Governance**Subject: Procurement of external legal  
advisors for the Meridian Water Programme  
Key Decision No: 4777****Wards: Upper Edmonton**

Contact officer and telephone number: Melanie Dawson 020 8379 2178

E mail: melanie.dawson@enfield.gov.uk

**1. EXECUTIVE SUMMARY**

- 1.1. A specialist team of external legal advisers is required to provide the Council with expert advice on delivery of the Meridian Water programme.
- 1.2. The current contract with Trowers & Hamblins LLP for the provision of specialist legal advice in connection with the Meridian Water project is expired on 4th March 2019.
- 1.3. This Report seeks approval to utilise the Crown Commercial Services (CCS) Wider Public Legal Services Framework (RM3788) (Lot 1: Regional Service Provision) and, in accordance with the framework terms, directly award a contract to Trowers & Hamblins LLP for a one-year term to support the Council in providing legal services in relation to the Meridian Water Programme.
- 1.4. In accordance with the Council's Contract Procedure Rules, on 23<sup>rd</sup> August 2018 the Procurement and Commissioning Review Board approved the procurement and sufficient budget has been allocated for the expenditure.

**2. RECOMMENDATIONS**

It is recommended that the Director of Law and Governance:

- 2.1 approve the direct award of contract to Trowers & Hamblins LLP (in accordance with the CCS Framework for Wider Public Legal Services) for the provision of legal services in relation to the Meridian Water Programme for a one-year period.

### 3. BACKGROUND

- 3.1. The current contract with Trowers & Hamlins LLP for the provision of specialist legal advice in connection with the Meridian Water project expired on 4th March 2019. During their engagement, Trowers & Hamlins LLP have advised the Council on a wide scope of legal work in relation to the Meridian Water Project including on procurement, development agreements, overage agreements, project governance, professional team appointments, grant funding, planning and judicial review, land acquisition, leases and estate management.
- 3.2. The Council is now seeking to ensure that a suitably experienced legal firm is able to continue to support the Council's Legal Services department to provide ongoing legal advice for the Meridian Water Project, e.g. in relation to the procurement of developers for further development phases, infrastructure works, acquisitions and disposals of land interests and meanwhile projects as well as providing general advice when the need arises.
- 3.3. Given that Trowers & Hamlins have acquired extensive knowledge of the complexities of the Meridian Water Project during their engagement, it is proposed that the Council uses the Crown Commercial Services (CCS) Framework for Wider Public Legal Services (Lot 1: Regional Service Provision) to directly award the contract to Trowers & Hamlins LLP.
- 3.4. The Procurement and Commissioning Board approved the procurement and the use of the CCS Framework on 23<sup>rd</sup> August 2018.

### 4. ALTERNATIVE OPTIONS CONSIDERED

#### 4.1. Option 1: Allow the contract with the current provider to end and continue without external legal advice.

The Council's internal Legal Services team now has much greater involvement in the Meridian Water Project than previously. Work that was traditionally outsourced to external lawyers on the project (e.g. property matters, procurement of works and services) is now being undertaken internally. Furthermore, Legal Services are currently leading on major projects at Meridian Water including the procurement of a delivery partner for the development of the Leaside Road site and in relation to the delivery of HIF works. Going forward, as the internal Legal Services expands and develops its own expertise, it is expected that the internal team will undertake an even greater proportion of the legal work. However, due to the nature and complexity of the project it is anticipated that there will inevitably be some areas on which the in-house team does not have the necessary expertise or capacity to resource this work and therefore it will be necessary to instruct external advisers. However, any new instruction under the contract will

require the approval of either the Director of Law and Governance or the Head of Legal Services.

#### **4.2. Option 2: Undertake a further competition under the CCS Framework to award the contract.**

4.2.1 Although direct awards are permissible under the CCS Framework, further competition is the default route to contract award. There are a range of high calibre providers on the panel and running a further competition would permit the Council to seek to negotiate discounted fees from those advertised – such reduction in published fees would not be possible if a direct award is made. However, it is felt that a transition to an alternative provider at this crucial point in the project would be detrimental to overall project delivery and that the best outcome would be obtained by retaining Trowers & Hamblins LLP.

4.2.2 Considerable time and resource would be required to run a further competition and ensuring a smooth handover to the new provider. There will also inevitably be an element of overlap and duplication of work if another firm of solicitors is appointed resulting in additional expense to the Council. Trowers would continue to advise on all matters on which they have been instructed up to the completion of their contract and therefore it is likely that there will be a lengthy period during which possibly two sets of lawyers were acting for the Council in relation to Meridian Water.

4.2.3 Trowers have also accumulated extensive knowledge of the Meridian Water Project during their engagement (e.g. particularly in relation to complex land ownership matters such as overage agreements). Considerable resource would be required to get a new firm up to this level of expertise.

4.2.4 For the reasons stated above, it is felt that any cost benefits that might be obtained by running a further competition would be outweighed by the negative impact on resource, speed of delivery and the project as a whole.

#### **4.3. Option 3: Using an alternative route to procurement.**

4.3.1 The Council's Contract Procedure Rules recommend the use of a suitable framework where it demonstrates best value. There are alternative frameworks available, including the London Borough of Southwark Legal Services Panel. This requires the Council to pay an access fee of £7,000. The list of providers on this panel is similar to the CCS Framework, which does not require payment of an access fee.

4.3.2 The Council could also choose not to use a framework and conduct its own OJEU compliant procurement. However, the use of an alternative route to procurement would be resource intensive and there are not likely to be any cost savings or other advantages in pursuing this route.

**4.4. Option 3: Procure legal advisers using the CCS Framework for Wider Legal Services.**

This is the recommended option. See below.

**5. REASONS FOR RECOMMENDATIONS**

5.1 Directly awarding a contract to Trowers & Hamblins LLP via the CCS Framework is the route to procurement that offers best value. A direct award is permissible under the Framework where a firm on the panel has previously worked on a project and it would be detrimental to project delivery of the same firm does not continue to provide the work and officers are satisfied that the best outcome can be achieved by re-instructing the same firm. Trowers & Hamblins LLP have acquired extensive knowledge of the complexities of the Meridian Water project during the period of their current engagement and officers are satisfied with the level of service provided to date.

5.2 Trowers & Hamblins LLP will be appointed to support the in-house team only where there is insufficient capacity or expertise in-house. The Legal Services team will closely monitor the contract to ensure that all instructions to Trowers & Hamblins LLP under the contract are approved in advance by the Director of Law and Governance or the Head of Legal Services and are appropriately resourced by the Trowers team. Trowers & Hamblins LLP will also be expected to add value to the contract by delivering training and knowledge-sharing opportunities to the in-house team in order to develop existing skills and knowledge to ensure that an even greater amount of work can be undertaken in-house over time.

**6. COMMENTS FROM OTHER DEPARTMENTS**

**6.1. Financial Implications**

Please see Part 2 Report.

**6.2. Legal Implications**

*Provided by: CP*

*Based on draft report circulated on 21.2.19*

6.2.1. The Council has power under section 1(1) of the Localism Act 2011 to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles.

There is no express prohibition, restriction or limitation contained in a statute against use of the power in this way. In addition, section 111 of the Local Government Act 1972 gives a local authority power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. Therefore, the Council has the necessary powers to appoint the legal advisers required for this project.

6.2.2. The procurement of the legal advisers must be carried out in accordance with the Councils Contract Procedure Rules and the Public Contracts Regulation 2015. It has been confirmed that approval from the Procurement and Commissioning Board has been obtained and that budget has been allocated for the service to be procured.

6.2.3. The Contract Procedure Rules and Public Contracts Regulations 2015 permit the Council to call-off from an existing framework if the framework terms permit. The CCS Framework for Wider Public Legal Services permits local authorities to call-off from it and sets out the circumstances in which a direct call-off is permitted. The resulting call-off contract must be based on the Framework terms and the Council must ensure that it follows the rules of the Framework.

6.2.4. The resulting contract must be approved by Legal Services on behalf of the Director of Law and Governance.

### **6.3. Property Implications**

There are no direct property implications arising from the procurement of the legal services contract.

## **7. KEY RISKS**

7.1 If legal services are not procured, the Council may be without expert and readily available legal advice at key stages of the Meridian Water project.

## **8. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD**

Procuring external legal advice where necessary will help to deliver Meridian Water and deliver on key Council priorities including providing good homes in well-connected neighbourhoods, sustaining strong and healthy communities, and building a local economy to create a thriving place.

## **9. EQUALITIES IMPACT IMPLICATIONS**

- 9.1 Equality and diversity considerations will continue to be integrated into the development and delivery work for Meridian Water to make sure they are embedded in the decision-making process and to avoid costly design changes.
- 9.2 For this procurement it is not deemed relevant to undertake an EQIA. It is recommended that as part of the review of the Meridian Water Project, the Meridian Water EQIA be reviewed and updated at an appropriate time to embed Equalities and Diversity in the future procurement, design and delivery of the project.

## **10. PERFORMANCE AND DATA IMPLICATIONS**

- 10.1 Delivery of a comprehensive regeneration scheme at Meridian Water is a corporate priority within the Council's Business Plan for 2016-2018. Completion of the Masterplan and the delivery of phased infrastructure improvements including increased rail services, station improvements and new homes will help to meet the strategic priority: "a borough that attracts inward investment and supports sustainable regeneration and growth."
- 10.2 Any contract awarded will include robust performance management controls inclusive of Key Performance Indicators. All instructions under the contract must be approved in advance by the Director of Law and Governance or, in his absence, the Head of Legal Services. Invoices will be received monthly and will be closely scrutinised to ensure the Council continues to achieve best value.

## **11. PUBLIC HEALTH IMPLICATIONS**

A regeneration neighbourhood at Meridian Water will have far reaching public health benefits particularly from the promotion and expansion of public transport, namely a more frequent rail service, an expanded bus network and integrated walk and cycle routes. This together with extensive green space, water fountains and a positive urban environment will continue to well-being at Meridian Water. The development will include all necessary public health and community services from health clinics to nurseries.

### **Background Papers**

None

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