



## London Borough of Enfield

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<b>Title:</b>	Unconditionality of Meridian Two Development Agreement
<b>Report to:</b>	Cllr Caliskan, Leader of the Council
<b>Date of Report:</b>	13 March 2024
<b>Directors:</b>	<i>Penny Halliday – Director of Meridian Water Ian Davis – CEO</i>
<b>Report Author:</b>	<i>Penny Halliday</i>
<b>Ward(s) affected:</b>	Upper Edmonton
<b>Key Decision Number</b>	KD 5547
<b>Classification:</b>	Part 1 & 2 (Para 3)
<b>Reason for exemption</b>	Information relating to the financial affairs of any particular person including the authority holding that information

### Purpose of Report

1. The purpose of the report is to seek approval for the Meridian Two Development Agreement with Vistry Partnerships Limited and Vistry Group to go unconditional.

## Recommendations

- I. Approve the Meridian Two Development Agreement to go unconditional subject to grant funding agreement.
- II. Delegate authority to the Director of Meridian Water to finalise the terms of the GLA grant agreement.
- III. Delegate authority to the Director of Meridian Water to enter into the GLA grant agreement (in consultation with the Director of Finance (Capital) and the Director of Law and Governance).

## Background and Options

2. Meridian Two is the former gas holder site located between IKEA to the North and an industrial estate to the South, shown in yellow in the below Site Plan graphic **(A.1)**. It is a residential led mixed use scheme with 274 affordable homes and a minimum of 3000m<sup>2</sup> non-residential spaces.



**A.1 - Meridian Water site plan**



### **A.2 Photographic Image of M2 Site**

3. Following a competitive procurement process, Cabinet approved the selection of a Development Partner to deliver this site in March 2020 (KD4952 – “Meridian Water: Meridian Two, selection of Development Partner”). This approval stated that the 274 homes would be affordable and the 3000m<sup>2</sup> of non-residential spaces would be retained by the Council.
4. In October 2021 the Executive Director – Place, approved an Operational Decision (PL21/8039 O NOD) to enter into a conditional Development Agreement with Vistry Partnerships. This Operational Report set out the final terms of the Meridian Two Development Agreement and sought authority from the Programme Director of Meridian Water, in consultation with the Director of Law and Governance, the Director of Property and Economy and the Executive Director of Resources, to approve those terms.
5. Following these approvals, Officers have worked to finalise terms with the selected partner, Vistry Partnerships and Vistry Group, and entered into a conditional Development Agreement on 21 October 2021. Vistry Partnerships then entered into a sale agreement with Metropolitan Thames Valley Housing (MTVH) as the Registered Provider who will own and manage the homes when completed.
6. As stated previously, the Council will retain the non-residential spaces. Under the DA the non-residential spaces are identified as “workspace” defined as “*use in accordance with Class “B1” pursuant to the Town and Country Planning (Use Classes) Order 1987 (as amended)*”.
7. Vistry are obliged to ensure the non-residential spaces are developed in line with the “Workspace Units Specification” which is the “Shell and Core Plus Standard”.

8. Meridian Two was the first Reserved Matters Application to be submitted pursuant to the Phase Two Outline Planning Permission 19/02718/RE3 which was approved 31st March 2022.
9. Between December 2022 and July 2023, Central Government introduced regulations pertaining to high-rise housing. These regulations stated that all new residential high-rise buildings exceeding a height of 18 meters had to incorporate a second staircase.
10. Following the publication of these regulations and associated guidance, Vistry redesigned the scheme to incorporate a second staircase and submitted a non-material amendment (NMA), as per section 96A of the Town and Country Planning Act 1990 (as amended).
11. On 31 March 2023, the Council entered into a Deed of Variation (DoV) to amend the conditions long stop date to 30 September 2023.
12. The amendments to the Reserved Matters Approval (Ref 22/02098/RM), include:
  - The addition of a second staircase into each core of the four buildings.
  - The adjustment of each building core in terms of orientation.
  - A redesign of the primary stair/lift location and size to accommodate the extra area required for the new staircase and orientations to residential cores.
  - The amendment of the dwelling unit mix approved pursuant to the Reserved Matters Approval,
  - A reduction in the quantum of workspace approved at podium level by 2 square metres from 3,014 square metres (GIA) to 3,012 square metres, this still meets the DA minimum requirement of 3000 square metres.
  - A reduction in total GIA floorspace by 46 square metres from 30,742 square metres (GIA) to 30,696 square metres.
  - The removal of a dedicated access corridor for residents from the car park to the external façade. This is because direct access can be provided internally from the car park to the lift/stair core in the revised layout.
  - The replanning of the ground floor to accommodate the revised stair cores and new risers, this includes revised access points to cycle parking, bin stores and post rooms.
13. The NMA was approved on 14 December 2023

#### Other options

14. Due to viability challenges across the whole of Meridian Water, the losses could not be covered within the wider scheme.

15. Therefore, at the time Officers were unable to provide a recommendation to go unconditional on the DA and alternative options were explored.
16. The first option was to optimise the scheme by increasing the number of homes to 453 and improving both the quality of the accommodation and the public realm. Whilst this option would not be able to deliver a 100% affordable scheme, it would still provide the same number of London Affordable Rent (LAR) homes in the 274 scheme. It would also improve the overall scheme viability and attract a significant capital receipt for the Council. However, this option would cause significant delays to the delivery of the parcel as a revised planning application would be required along with potentially a new procurement process.
17. A second option was to seek a funding intervention from the GLA.

### **Preferred Option and Reasons For Preferred Option**

18. Although an optimised scheme has advantages, the delays to delivery are significant. The current scheme offers 100% affordable homes and is “shovel ready”, this means it can quickly meet the high housing need and demand, avoiding delays and uncertainties.
19. Due to the aforementioned viability issues, the GLA was approached for gap funding intervention to enable the Council to proceed with this scheme.
20. After months of negotiation led by officers, GLA has agreed “in principle” to provide a substantial funding intervention.
21. Officers also led the legal negotiations with the GLA, making it possible for the funding to go directly to the Council, rather than passing through MTVH and Vistry.
22. As a result of Enfield’s actions, the grant intervention has enabled the scheme to proceed.
23. The following tables breakdown the Residential and Tenure mixes

<b>Bedroom size (b = Bedroom, p=people)</b>	<b>Original mix</b>	<b>Revised mix</b>	<b>Difference</b>
Studio 1b1p	3	3	0
1b2p	64	74	+10
2b3p	32	58	+26
2b4p	91	66	-25
3b5p	84	73	-11
<b>Total</b>	<b>274</b>	<b>274</b>	

#### ***A.3 Residential Mix***

<b>Tenure</b>	<b>No</b>
London Affordable Rent (LAR)	131
London Living Rent (LLR)	95
Shared Ownership (SO)	48
<b>Total</b>	<b>274</b>

#### **A.4 Tenure Mix**

#### Non-residential space

24. The expectation in 2019 was that industrial uses could be “pepper potted” across multiple locations throughout the Meridian Water site as part of the “Make & Create” placemaking pillar.
25. However, this dispersed approach has been reviewed and it is now deemed appropriate to concentrate industrial uses within particular areas of Meridian Water to ensure they are best located in terms of both a placemaking perspective and occupier requirements. This decision has been informed by market insights and comparable case studies, including a review by Newbridge Advisors and Haworth Tompkins architects.
26. Rather than accommodating industrial uses as part of Meridian Two, these are being encouraged in the ‘Northern Band’ of Meridian Water. In this northern location, industrial uses can benefit from strong access connections and help to ‘buffer’ residents to the south from the noise and fumes of the North Circular Road. This approach aligns to the Meridian West SPD (adopted July 2023) and the Strategic Industrial Land (SIL) strategy for Meridian Water overall.
27. For Meridian Two at the south of Phase 2, options are being explored to ensure that we deliver non-residential spaces appropriate to the needs of the future residents of the development. For example, there is potential for retail, health, and /or food and beverage uses to activate the area in support of the placemaking objectives for Meridian Water overall. This is particularly important at Meridian Two given that it is the first Phase 2 plot to be built out.
28. An amendment will be required to secure planning permission for non-residential uses that differ from the outline parameter plans. Supporting evidence will be provided as part of the amendment application to ensure that the uses for Meridian Two better align to the overall visions and aims for Meridian Water.
29. The below table details the draft timelines for the programme

<b>Block</b>	<b>Tenure</b>	<b>No.</b>	<b>Practical Completion (PC) Date</b>
A	London Affordable Rent (LAR)	92	February 2027

B	Shared Ownership (LO)	48	December 2026
C	London Affordable Rent (LAR)	39	December 2026
D	London Living Rent (LLR)	95	February 2027
		<b>274</b>	

### **A.5 Draft Programme**

30. There are Landowner conditions in the DA which, amongst others, relate to the Strategic Infrastructure Works (SIW) namely Leaside Rd improvements, Brooks Park, Bridge B5 and the Central Spine Road. Vistry have step in rights and can levy Liquidated Ascertained Damages (LADs) in relation to each Block if these works are not completed prior to the date of practical completion of the relevant Block. Those practical completion dates cannot be before the following dates:

31. The below table details the SIW programme elements associated with Meridian Two pre-occupation obligations.

<b>SIW works</b>	<b>Practical Completion Date</b>
Bridge B5	August 25
Brooks Park	December 25
Central spine Road	December 25
Leaside Road	December 25

### **A.6 SIW Programme Details**

#### Legal Information

32. Browne Jacobson our external lawyers have been instructed in relation to taking the DA “unconditional” and the GLA grant funding..

33. The Council entered into the DA for the redevelopment of the site known as “Meridian 2”. The DA was then varied by the DoV to update and push out some of the dates in the DA, notably in this context the Conditions Longstop Date was amended to 30 September 2023.

34. The DA is a conditional agreement. This means that certain obligations in the Development Agreement do not ‘go live’ (primarily the obligation on Vistry to actually carry out the development works) until the Conditions are satisfied. The DA is currently still conditional because not all Conditions have been satisfied.

35. Three condition precedents remain unsatisfied:

- Landowner’s Pre-Commencement condition requires the Council to have submitted and obtained approval for a number of strategies and plans required under the Phase 2 Outline Permission.
- Association Condition – the Developer to have entered into an unconditional agreement with a Registered Provider to purchase all of the homes.

- The Developer's Planning Condition - This condition is satisfied when 50 days have passed following the date a Satisfactory Planning Consent was granted by the Council as the local planning authority. A Satisfactory Planning Consent encompasses (i) the approval of the reserved matters and (ii) entry into the s.106 agreement and any other planning agreement. Currently, (i) an outline planning permission has been obtained, (ii) a reserved matters approval has been obtained but (iii) the s.106 agreement remains outstanding.

36. When the Development Agreement goes unconditional, this acts a trigger for Vistry and the Council to enter into numerous other documents to govern the next stage of the Development. The documents to be entered into or formalised are:

**Building Lease** – a Lease of the Site granted by the Council to Vistry under which they can undertake the Works

**Licence** – A licence for Vistry to carry out Works on the Licence Area forming part of the site.

**Council Assets Agreement for Lease** – an agreement for a Council Assets Lease. This essentially is an agreement under which the council promises to take a lease of the workspace units once they have been completed.

**Connection Agreement** entered into by Vistry relating to connection to the Heat Network with Energetik as the counter party

**Framework Supply Agreement** entered into by Vistry relating to connection to the Heat Network with Energetik as the counter party

**Section 106 Agreement:** Vistry need to enter into this simultaneously with Building

37. The Council will be required to produce engrossment versions of the Building Lease, Licence and Council Assets Agreement for Lease for Vistry to execute. The Council will then need to enter into these documents within 5 working days of receiving the signed copies from Vistry.

38. Vistry will be responsible for creating engrossments of the Framework Supply Agreement and Connection Agreement and will deliver these to the Council together with the other documents. These will then be completed at the same time as the Building Lease is granted.



39. The Council is required to pay Vistry the “landowners land value payment” (clause 3.6.1) on the Building Lease Completion Date. This is the remainder of the sum which has not already been paid by the Council in relation to the Enabling Works Costs.

40. The dates in the DA will be amended, the most important ones for the Council commercially are the “Block Dwelling PC Dates”. These dates are key as the Block Dwelling PC Dates are the earliest dates by which Vistry can practically complete the blocks and act as the trigger point for payment of the aforementioned LADs to Vistry, if the pre-occupation works have not been completed.

41. Some further amendments will also be required to the DA to reflect the GLA grant being given to the Council and the other points raised in this report. The detail of this will need to be determined and negotiated once we receive the draft grant funding terms from GLA but in principle the following will need to be addressed:

- a. a written acknowledgement of when the “Unconditional Date” occurred so that it is clear for the Council and Vistry in the future;
- b. The GLA grant will require MTVH to enter into a deed of covenant in relation to their use of the Affordable Dwellings which will ultimately be leased to them by Vistry. As the Council does not have a direct contractual relationship with MTVH it will need to ensure Vistry procures this deed of covenant from MTVH.
- c. The Council want to potentially change the use class of the Workspace Units which will necessitate amends to the Council Agreement for Lease to ensure this flexibility is given in the form of lease ultimately entered into by the Council for these units.

42. The Council will also need to monitor the subsidy control position in relation to the GLA Grant prior to entering into the grant funding agreement and going “unconditional”. The GLA have confirmed that they are satisfied that giving the grant to the Council does not involve a “subsidy” but the Council will need to monitor that it is either a) not giving any subsidy to Vistry and/or MTVH; or b) if it is then it can give that subsidy in compliance with the subsidy control regime.

43. Risk - The below table sets out some of the key risks and mitigations associated with this.

Risk	Mitigation
Delays to the SIW works - resulting in the Council not meeting pre-occupation obligations	LAD provisions in the SIW contract. Robust contract management in place including early warning mechanism, and escalation

Delays to non-residential Practical Completion (PC)	LAD provisions in the DA
Unable to change the non-residential use class	Robust planning strategy to be devised
Unable to rent the non-residential ground floor commercial spaces	Robust strategy and marketing to be in place 18 months prior to PC
Limited powers under the DA to ensure the quality of the design from RIBA 4 onwards	Work closely with MTVH to use the provision in their agreement to ensure the design quality is not eroded

### **A.7 Risks and Mitigations**

#### Financial Viability

44. See part 2

45. There is a difference between the S106 obligations requested by the LPA and those set out in the DA. Officers have requested further information from Vistry to ascertain the financial implications for the Council.

#### **Relevance to Council Plans and Strategies**

46. Meridian Water is a key component in contributing to the vision, aims and priorities of the Council's Corporate Plan.

47. **An economy that works for everyone** – In addition to delivering jobs within the construction industry during the construction phase of the project, Meridian Two will deliver a substantial new ground floor workspace of 3000m<sup>2</sup> that will be retained by the Council, providing ongoing high quality employment opportunities. The Development Agreement also includes a number of Social Value obligations.

48. **More and better homes** – Meridian Two will deliver 274 homes of which 100% will be affordable with 50% for London Affordable Rent (LAR), and 50% as "Intermediate" to include shared ownership, London Living Rent and other rental products, helping to meet the high housing needs of the borough. The Council will benefit from nomination rights for the LAR homes, and the intermediate homes will be allocated in accordance with the Council's own intermediate housing policy

49. **Thriving children and young people** – Alongside providing housing at a range of sizes that support numerous family structures, Meridian Two will also support children and young people through the creation of safe and integrated play areas.

50. **Clean and green places** – Meridian Two will benefit from immediate proximity and outlook to the new two hectare 'Brooks Park' which will be delivered as part of the SIW, providing a high quality and ecologically rich amenity with naturalisation of the Pymmes and Salmons Brooks. The

scheme will also benefit from proximity and outlook onto the Lea Valley and Tottenham Marshes.

### **Financial Implications**

51. See Part 2

### **Legal Implications**

52. Browne Jacobson LLP have inputted into this report from a legal perspective, including the legal section above, focusing on any anticipated amendments to the delivery/structuring of the project.

53. The Council has general powers under S1 of the Localism Act 2011 to pursue the actions set out in this report, including entering into a Grant Funding Agreement with the GLA and taking the DA “unconditional”.

54. See Part 2

### **Equalities Implications**

55. N/A

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### **Appendices**

Part 2 Report