

**MUNICIPAL YEAR 2015/2016 REPORT NO.**

**ACTION TO BE TAKEN UNDER  
DELEGATED AUTHORITY**

**OPERATIONAL DECISION OF:**  
Director – Regeneration  
and Environment

Contact officer: Sue McDaid.

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|   |                  |
|---|------------------|
| <b>Agenda – Part: 1</b>   | <b>KD : 4122</b> |
| <b>Subject:</b><br><br><b>Provision of Litter and Street Scene<br/>Enforcement Services</b> |                  |
| <b>Wards: ALL</b>   |                  |

**1. EXECUTIVE SUMMARY**

- 1.1 The report sets out the details of the tendering exercise for the provision of Litter and Street Scene Enforcement Services.
- 1.2 Three tenders were received and evaluated.
- 1.3 The report summarises the procurement process and outlines the financial implications for the Council

**2. RECOMMENDATIONS**

To award the contract for the provision of Litter and Street Scene Enforcement Services to Kingdom Security Limited from 1 September 2015 for a period of 2 years with possible extension of 2 years in 12 month increments, subject to the agreement of both parties. The likely total value of the contract (including the option to extend the contract by 2 years) is £1,136,000.

### **3. BACKGROUND**

- 3.1 Since February 2009 the Council has delivered a uniformed litter warden service through a contractor who provided a visible deterrent towards littering and dog fouling with enforcement provision through the issue of £80 Fixed Penalty Notices (FPN) and prosecution where the penalty is unpaid.
- 3.2 The current contract was awarded to Xfor Local Authority Ltd (and subsequently novated to Kingdom Security Limited) and commenced on 1 September 2011 to run to 31 August 2013, with an option to extend for two years of 12 months each. The contract was subsequently extended on 31 August 2013 for 12 months and then again for a final 12 months to 31 August 2015.
- 3.3 On 19 November 2014, Strategic Procurement Board approved the business case to re-tender the litter contract to take effect from 1 September 2015. However, the opportunity was taken to extend the scope of the tender beyond litter enforcement.
- 3.4 In December 2013 the Council obtained a spitting Bylaw which at the time could only be dealt with by way of prosecution. In December 2014, the Council was granted powers to be able to issue an £80 FPN for a spitting offence, reduced to £50 if the penalty is paid with 14 days. The enforcement of this provision was added to the tender.
- 3.5 In addition to the above, opportunity was sought to include in the contract bespoke waste enforcement activity which complements the work of Public Realm in delivering an additional waste enforcement capability as and when required.
- 3.6 Therefore, the tender required predominately a litter enforcement service, but also the enforcement of dog fouling, spitting and (as and when required) waste enforcement.
- 3.7 Due to the total contract value, the Council has carried out a full OJEU procurement process in compliance with the Council's Contract Procedure Rules and EU procurement regulations.
- 3.8 The tender was published on 5 March 2015 for OJEU purposes. The tender was placed on the London Portal on 11 March 2015 and bids were invited for submission by 14 April 2015.
- 3.9 The Council received three bids.

3.10 The tender documentation was evaluated based on the criteria set out below:

| <b>PRICE CRITERIA (70%)</b>   | <b>Sub-criteria</b>                                     | <b>Sub-weighting</b> |
|---|---|----------------------|
| <b>Litter Enforcement Services (60%)</b>  |   |                      |
|   | £80 FPN   | 54%                  |
|   | Early payment of £50 for an £80 FPN (spitting offences) | 6%                   |
| <b>Waste Enforcement Services (10%)</b>   |   |                      |
| Waste Enforcement Officer   |   |                      |
|   | Daily Rate (sub-weighting 1%)                           | 1%                   |
|   | Weekly Rate (sub-weighting 1%)                          | 1%                   |
|   | Monthly Rate (sub-weighting 3%)                         | 3%                   |
| Support Worker  |   |                      |
|   | Daily Rate (sub-weighting 1%)                           | 1%                   |
|   | Weekly Rate (sub-weighting 1%)                          | 1%                   |
|   | Monthly Rate (sub-weighting 3%)                         | 3%                   |
| <b>TOTAL</b>  |   | <b>70%</b>           |
| <b>QUALITY CRITERIA (30%)</b>   | <b>Sub-Weighting</b>                                    |                      |
| <b>MS1</b> How the contract will be managed/programmed  | <b>50% (of 30%)</b>                                     |                      |
| <b>MS2</b> Emergency Back-up Support  | <b>5% (of 30%)</b>                                      |                      |
| <b>MS3</b> Provision and evaluation of management performance information to monitor and improve services, including setting and monitoring performance | <b>5% (of 30%)</b>                                      |                      |
| <b>MS4</b> Company's expertise and track record   | <b>35% (of 30%)</b>                                     |                      |
| <b>MS5</b> Delivering a Quality Service   | <b>5% (of 30%)</b>                                      |                      |

#### **4.0 ALTERNATIVE OPTIONS CONSIDERED**

##### **Not to provide the service**

- 4.1 This is not a viable option as the Council has a duty under Section 89 of the Environmental Protection Act, 1990 to, so far as is practicable, keep the land and highways clear of litter and refuse. Furthermore we are unable to provide a full service within existing staff resources.

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

- 5.1 The successful bidder provides an overall cost effective service and its tender was assessed as the most economically advantageous being determined by combining a technical (quality) evaluation of the proposed solution and a commercial evaluation of the proposed price according to the weightings detailed in paragraph 3.8. The estimated cost of inputting the FPNs, sending reminders and preparing prosecution files by our business support officers with the current contract arrangements is £25,000 per year (equates to £100,000 over the 4 year life of the contract). This new contract will save those sums as the contractor will undertake those administrative tasks.
- 5.2 The successful bidder has sound systems for managing the contract, business continuity and significant enforcement experience. There is high confidence that they can fully meet the requirements of the contract.
- 5.3 This contract will facilitate the continued improvement to the borough's street scene seeking a reduction in the amount of litter, dog fouling spitting and waste on the highway and other public land.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS**

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

- 6.1.1 Litter enforcement is the predominant enforcement activity carried out under the current contract. The new contract specifications include enforcement against spitting, anti-social behaviour, ad-hoc investigation and enforcement relating to street scene issues such as fly tipping. However, the usage of the addition schedule of rates is likely to be limited. The estimated annual contract value is £284,000. On litter enforcement – the predominant enforcement activity, the recommended tender price is 5% below the current contract price. The 2014/2015 costs and receipts arising from the current contract is £279,000 and £283,000 respectively; assuming the same level of enforcement activities, a 5% reduction on the cost of litter enforcement represents an annual saving of £14,000. Therefore, it is reasonable to assume that the new enforcement contract will continue to be self-financing.

## **6.2 Legal Implications**

- 6.2.1 The Council as a duty under section 89 of the Environmental Protection Act, 1990 (EPA) to, so far as is practicable, keep the land and highways clear of litter and refuse. In addition section 111 of the Local Government Act, 1972 allows a local authority to do anything (whether or not involving expenditure, borrowing, or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions. Further, under section 1 of the Localism Act 2011, The Council has power to do anything that individuals generally may do. This is subject to the boundaries of the general power, requiring Councils to act in accordance with statutory limitations or restrictions.
- 6.2.2 The Council must comply with the Public Procurement Regulations 2015 and its Contract Procedure Rules (CPR) in relation to all aspects of the procurement including the award procedure. This report confirms that a full OJEU procurement process has been conducted.
- 6.2.3 Due to the likely contract value the Council must comply with the Key Decision procedure.
- 6.2.4 The contract must be in a form approved by the Assistant Director of Legal Services.
- 6.2.5 In accordance with the following: section 88 Environmental Protection Act 1990, section 59 Clean Neighbourhoods and Environment Act 2005, section 237 Local Government Act 1972, Section 15, London Local Authorities act 2004, sections 53 & 68 Anti-social Behaviour, Crime and Policing Act 2014, any issuing of fixed penalty notices (FPNs) must be given/ issued by an authorised officer of the Council.

## **6.3 Property Implications**

The contract will require the Council to provide desk space for one administrative worker supplied by the contractor. This is reduction of one desk under current arrangements is welcomed by Facilities Management, with accommodation space under pressure at present.

## **7. KEY RISKS**

- 7.1 No significant risks have been identified as the provision of litter, dog fouling and spitting enforcement requires no direct investment by the Council and should continue operate on a cost-neutral basis as it has done previously.
- 7.2 Should the contractor cease to provide the contracted service for any reason, the impact may prevent the reduction of litter, dog fouling, spiting and waste offences and be detrimental to the overall appearance of the street environment.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

There will be positive impacts for residents and other people visiting the borough in terms of reduced amounts of litter and waste, and a more aesthetically pleasant environment.

### **8.2 Growth and Sustainability**

These proposals will contribute towards ensuring that the service meets performance targets and standards of cleanliness.

### **8.3 Strong Communities**

Clean streets are a top priority for Enfield's residents and businesses. The administration and Council have a strong commitment to cleaner streets. This contract contributes towards enhancement of the street scene.

## **9. EQUALITY IMPACT IMPLICATIONS**

The provision of such enforcement services has already been considered as part of the Regulatory Service's retrospective Equalities Impact Assessment.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

The contract will support the achievement of Street Cleansing performance objectives.

## **11. HEALTH AND SAFETY IMPLICATIONS**

None, as this is a fully contracted out service

## **12. PUBLIC HEALTH IMPLICATIONS**

12.1 There are no negative impacts associated with the provision of this service.

12.2 The proposed service will have a positive impact upon the health and well-being of the public in Enfield by reducing the amount of spitting, dog fouling and waste on the streets which is detrimental to health and the environment.

12.3 Furthermore more than 99% of all litter FPNs issued relate to discarded smoking related materials. The Council was the first Council to operate a 'quit smoking' scheme for people seen littering cigarette waste which has a positive impact upon health and well-being. The scheme offers the opportunity for a smoker who has received a litter FPN to undergo

a quit smoking programme and if successfully completed receives a £60 voucher, (provided the original FPN is paid).

### **Background papers**

None

### **Appendix 1**

Invitation to tender

Specification





## MUNICIPAL YEAR 2015/2016 REPORT

### ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY:

#### REPORT OF:

Director of Finance, Resources and Customer Services

#### PORTFOLIO DECISION OF:

Director of Finance, Resources and Customer Services in conjunction with the Cabinet Member for Finance Efficiency.

#### Contact officers:

Mohammed Lais – 020 8379 4004 [mohammed.lais@enfield.gov.uk](mailto:mohammed.lais@enfield.gov.uk)

| Agenda – Part: 1   | Item: |
|--|-------|
| <b>Subject: Bury Street West Development Scheme- Acquisition of 294 Bury Street West, Edmonton, N9 9LA</b> |       |
| <b>Ward: Bush Hill Park</b><br><b>Key Decision No: 4008</b>  |       |
| <b>Cabinet Members consulted:</b><br><b>Cllr Andrew Stafford</b>   |       |

### 1. EXECUTIVE SUMMARY

- 1.1 Proposals for redevelopment of the former Parks Depot Site, N9 9LA, were approved by Cabinet on 12 November 2014 and full Council on 19 November 2014.
- 1.2 This report concerns the acquisition of 294 Bury Street West ('the Property'), a residential property in connection with the redevelopment at the former Parks Depot.
- 1.3 Approval is sought for the acquisition of the property and expenditure associated with the acquisition.

### 2. RECOMMENDATIONS

**That the Cabinet Member for Finance Efficiency in conjunction with the Director of Finance, Resources and Customer Service approves, as per the Property Procedure Rules;**

- 2.1 The acquisition of the freehold interest in the Property and associated expenditure by the Council on the terms as stated in Part 2 of this report.
- 2.2 The release of General Fund Capital resources earmarked for Stage 2 of the Bury Street West Development project to enable the acquisition of the Property and expenditure associated with the acquisition.
- 2.3 The Assistant Director of Strategic Property Services is granted delegated authority to make the necessary arrangements to complete the purchase.
- 2.4 The Assistant Director of Strategic Property Services is granted delegated authority to decide on interim proposals for the Property whilst a planning application is formulated.

### **3. BACKGROUND**

- 3.1** The report to Cabinet of 12<sup>th</sup> November 2014 set out innovative proposals for the redevelopment of the redundant former Parks Depot at Bury Street West for new homes and an environmentally enhanced publicly accessible open space.
- 3.2** That report also set out the delivery activities that will be needed, including the acquisition of various parcels of land together with an agreed budget. This report concerns the acquisition of the Bungalow at 294 Bury Street West 'The Property'.
- 3.3** The Property is a large three bedroomed detached bungalow built by the Council in the 1960's as a dwelling for the manager/caretaker of the adjoining Council depot facility.
- 3.4** Access to and from the Property is via the entrance to the Council depot and is situated on the south side of Bury Street West hidden behind the large Grade II Listed wall that adjoins the Grade II Listed Salisbury House.
- 3.5** For identification purposes the site plan is appended to this report and demonstrates how integral the Property is to the proposed Council development.
- 3.6** The bungalow sits on a large plot at the entrance of the site and is of strategic importance to the success of the proposed development at Bury Street West. The acquisition also enables the Council through progression of the development scheme to enhance the setting of the Grade II Salisbury House.
- 3.7** Acquisition of the Property and subsequent demolition will provide important benefits to help justify the case for wider site development within the Metropolitan Open Land designation.
- 3.8** Strategic Property Services engaged with the owners of the Property and agreed terms for an acquisition by commissioning an independent market valuation of the Property which has been undertaken by an external Registered Chartered Valuation Surveyor.
- 3.9** Options are being worked up by Karakusevic Carson, the Councils appointed architects for the whole depot site including the entrance vistas to the development, and in their opinion the added value and benefit gained from the acquisition of the property will be self-evident from the options that are currently being explored.
- 3.10** The valuation confirms that the Council are acquiring the Property at market value and an Independent Red Book Valuation received affirms the transaction to the Property Procedure Rules.

- 3.11** This valuation satisfies the Council's obligation under Section 120 of the Local Government Act 1972, which permits the Council to acquire by agreement any land whether situated inside or outside its area for the purpose of any of their functions under that or any other enactment or for the benefit, improvement or development of their area.

#### **4. PROPOSAL**

- 4.1 To purchase the freehold interest in the Property at a price detailed within Part 2 of this report.

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

- 5.1 Not acquiring this Property will be considered a lost opportunity to add considerable value to the overall development scheme at the former Council depot site.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

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

See Part 2 for details.

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

- 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.

- 6.2.2 Section 120(1)(b) of the Local Government Act 1972 (LGA) gives Councils a specific power to acquire land for the benefit, improvement or development of their area. In addition, the Council has powers under section 227 of the Town and Country Planning Act 1990 (as amended) to acquire land by agreement for 'planning purposes'. Where agreement cannot be reached, the Council has the power under various enactments to acquire land compulsorily using a Compulsory Purchase Order. However, CPO is a lengthy process and a measure of last resort. It is therefore noted that purchase by agreement has been pursued in this case.

- 6.2.3 When considering an acquisition of property the Council must act in accordance with its Property Procedure Rules, including obtaining advice that the terms negotiated represent value for money and the property is suitable for intended use. In that respect the contents of paragraphs 3.6, 3.7, 3.10, 3.11 and 5.1 of this report are noted.

6.2.4 The recommendations detailed in this report are in accordance with the Council's powers.

### **6.3 Property Implications**

6.3.1 The acquisition of the Property is not without risks, please see Part 2 Report highlighting the key risks.

6.3.2 Once acquired the Property will require various surveys and will be undertaken within the budget set for stages 1 and 2 of the project

6.3.3 Various surveys will be required to assess the property for an alternative use in the interim whilst a planning application is worked up.

6.3.4 The asset will need to be registered on the Council's asset management system and be managed as part of the vacant buildings portfolio.

6.3.5 The insurance department will have to be informed so that the Property can be entered onto the corporate buildings schedule. To aid this process a reinstatement value will have to be provided.

## **7. KEY RISKS**

The predominant risk is that if the redevelopment does not proceed to completion the cost of the acquisition will have to be borne by the Council. Alternative longer term uses will then be considered for the Property.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

The scheme will be developed so as to provide access and benefits to the maximum number of people.

### **8.2 Growth and Sustainability**

Scheme proposals will be required to incorporate the highest standards of Green technologies and sustainable development. The acquisition of the Bungalow will improve the street scene, quality of development and improved vistas towards the development and Salisbury House.

### **8.3 Strong Communities**

A mixed tenure scheme will provide a variety of much needed new housing within a safe new neighbourhood.

**9. EQUALITIES IMPACT IMPLICATIONS**

Not applicable.

**10. PERFORMANCE MANAGEMENT IMPLICATIONS**

The acquisition of this property will assist the Council in the delivery of comprehensive housing scheme.

**11. HEALTH AND SAFETY IMPLICATIONS**

If the property is held vacant, appropriate security measures will need to be put in place.

**12. PUBLIC HEALTH IMPLICATIONS**

The high standard of the proposed new homes and the extension of publically accessible open space will both be positive contributors to public health.

**Background Papers**



## MUNICIPAL YEAR 2015/2016 REPORT NO.

### ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

**OPERATIONAL DECISION OF:**  
Director – Regeneration  
and Environment

|   |                     |
|---|---------------------|
| <b>Agenda - Part: 1</b>   | <b>KD Num: 4067</b> |
| <b>Subject:</b><br>Vehicle Crossings & Associated Works<br>Contract 2015 to 2017 (G MD 379) |                     |
| <b>Wards: All Wards</b>   |                     |

Contact officer and telephone number:  
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### 1. EXECUTIVE SUMMARY

- 1.1 This report details the evaluation exercise for the Enfield Council Vehicle Crossing and Ancillary Works Contract G MD 379, which was tendered through the London Tenders Portal in March 2015.
- 1.2 The Contract period is for 2 years. It is to commence on 6<sup>th</sup> July 2015, expiring on 5<sup>th</sup> July 2017, subject to the Council's option to extend for 1 year further year or part thereof.

### 2. RECOMMENDATIONS

- That the Director of Regeneration & Environment notes and approves;
- 2.1 the award of the Enfield Council Vehicle Crossing and Ancillary Works Contract G MD 379, to the contractor listed in Part 2 of this report to commence on 6<sup>th</sup> July 2015 for a two year term, subject to the Council's option to extend for one further year extension or part thereof and.
  - 2.2 the details of the evaluation exercise contained in part 2 of this report.

### **3. BACKGROUND**

- 3.1 The Council has a robust process for residents to apply for vehicle crossovers whereby the Council will arrange for its contractor to construct the crossover at the resident's cost.
- 3.2 The Council has previously provided this service to residents of Enfield through its Highway Maintenance term contractors and previously its in house teams. On 1 November 2014, the Council changed its highway and civil engineering term contractor and now uses a call-off contract with Ringway Jacobs as part of the London Highway Alliance Contract (LoHAC) framework. Although this new contract has been evaluated to provide savings across the overall highway works programme, the rate per square metre for constructing vehicle crossovers is significantly more expensive than the previous term contractor's rate. Use of LoHAC therefore has a direct effect on the unit rate that residents have to pay.
- 3.3 Following a review of the contract service provision and in order to provide a best valued delivery mechanism for residents of Enfield, a decision was taken to undertake a compliant tender exercise for vehicle crossover works.
- 3.4 The scope of the contract includes the construction of vehicle crossings for residents and businesses within Enfield and associated works.
- 3.5 The initial shortlisting was carried out via Constructionline (section 25 CPRs) and then the tendering process was conducted using the Council's e-Tendering system.
- 3.6 Tender documents were issued via the London Tenders Portal to the 5 selected companies on 10<sup>th</sup> March 2015, with a tender return date of 27<sup>th</sup> March 2015.
- 3.7 During the tender period one company opted out of the tender process and one company failed to respond through the portal.
- 3.8 After evaluating the 3 submissions, all 3 bidders were compliant.
- 3.9 This contract has been tendered and evaluated on the basis of most economically advantageous to the Council. This was based on a 30/70 Quality/Price ratio.
- 3.10 The tender documentation consisted of two parts, namely the completed Technical Questionnaire (Quality Submission) and the Schedule of Rates Submission (Financial Evaluation).
- 3.11 Representatives from Highway Services evaluated and scored the returned Technical Questionnaires (Quality Submissions).



- 3.12 A financial evaluation model was created taking into account each area of the provision of service. The model was reviewed and approved by Finance prior to the tender returns.
- 3.13 The criteria for award of the tender was stated under item 1.4 and Section 3 (Evaluation Criteria) in the Instructions for Tendering that were sent out as part of the contract documents prior to the tender period.
- 3.14 Details of the evaluation process are contained in the Part 2 report.

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

LoHAC was considered. However, the rates provided were not seen as offering Best Value for the residents and businesses of Enfield.

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

The tender received from the contractor listed in Part 2 of this report is recommended for acceptance as its tender achieved the highest overall combined (financial and quality) evaluation score, in accordance with the tender requirements.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

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

Please refer to the Part 2 report for financial implications.

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

The Council has the general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals generally may generally do provided it is not prohibited by legislation. There is no express prohibition, restriction or limitation contained in a statute against use of the power in this way.

- 6.2.1 The value of the contract is below the EU threshold for works.
- 6.2.2 The procurement was conducted in accordance with the Council's Contract Procedure Rules. These state that competitive tendering must apply and that a minimum of 5 contractors should be invited to tender.
- 6.2.3 The initial shortlisting was carried out utilising Constructionline (section 25 CPRs) and then the tendering process was conducted using the Council's e-Tendering system.

6.2.4 Section 184 of the Highways Act 1980 contains provisions for persons to make an application to the highway authority requesting the construction of a vehicle crossing over a footway or verge

6.2.5 The documentation governing the terms on which the services and any works are to be provided under the contract (including as to price) must be in a form approved by the Assistant Director of Legal Services.

### **6.3 Property Implications**

None

## **7. KEY RISKS**

7.1 The appointment of a competent contractor specifically to construct vehicle crossings will mitigate any potential challenge from residents regarding the unit rate costs for constructing their vehicle crossing.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

The construction service for vehicle crossings to all residents across the borough through competitively tendered rates ensures that a best valued solution is provided to all.

### **8.2 Growth and Sustainability**

none

### **8.3 Strong Communities**

none

## **9. EQUALITIES IMPACT IMPLICATIONS**

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

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

10.1 The Contractor's performance in delivering the service will have a direct impact on the Council's Vision and Priorities. The Contractor's performance will continually be assessed in the categories

- Contract Management
- Customer Satisfaction
- Operational Performance

10.2 Performance monitoring will be a continuous process and Key Performance Indicators will be reported monthly at the contract progress meetings.

**11. HEALTH AND SAFETY IMPLICATIONS**

The contract specifies health and safety requirements for working on the public highway ensuring the general public are protected from any works that are taking place.

**12. PUBLIC HEALTH IMPLICATIONS**

none

**Background Papers**

None.



## MUNICIPAL YEAR 2015/2016 REPORT NO.

### DELEGATED AUTHORITY REPORT PORTFOLIO DECISION OF:

Cabinet Member for Economic  
Regeneration & Business Development and  
the Cabinet Member for Finance and  
Efficiency

### REPORT OF:

Director - Regeneration and Environment &  
Director Finance, Resources and Customer  
Services

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| Agenda – Part 1:   | Item: |
|--|-------|
| <b>Subject:</b> Meridian Water – Project Delivery –<br>Exchange and Complete Purchase<br>Agreement   |       |
| <b>Wards:</b> Upper Edmonton & Edmonton Green  |       |
| <b>Key Decision No:</b>  |       |
| <b>Cabinet Members consulted:</b><br><br>Cllr Alan Sitkin – Economic Regeneration &<br>Business Development<br><br>Cllr Andrew Stafford – Cabinet Member for<br>Finance and Efficiency |       |

## 1. EXECUTIVE SUMMARY

- 1.1 On the 29<sup>th</sup> April 2015, Cabinet delegated authority (KD 4033) to the Director - Regeneration and Environment & the Director of Finance, Resources and Customer Services to develop and finalise the Heads of Terms (HoTs) for the acquisition of land in the Meridian Water Area in accordance with the Heads of Terms (HoTs) presented to Cabinet.
- 1.2 Further authority was delegated to the Cabinet Member for Economic Development and the Cabinet Member for Finance and Efficiency, acting with the Director Regeneration and Environment and the Director Finance, Resources and Customer Services to exchange and complete the Purchase Agreement and enter into such legal documents arising from the acquisitions.
- 1.3 This report details the finalised Heads of Terms that have informed the drafting of the Agreement for Sale and the other associated transaction documents.
- 1.4 The purpose of this report is to exercise the delegated authority to exchange and complete the Agreement for Sale and other associated documents, thus acquiring a further 6 hectares (14.82 acres) of developable land within Meridian Water.

## **2. RECOMMENDATIONS**

- 2.1. To acknowledge and agree that the Heads of Terms (HoTs) as appended to Part 2 of this Report are acceptable to the Council.
- 2.2. To authorise the exchange and completion of the Agreement for Sale as described in Part 2 of this Report.
- 2.3. Pursuant to the Agreement for Sale, authorise the Council to enter into an Option Agreement, annexed in Part 2 of this Report and subsequently grant a 999-year lease, should the Option be exercised.
- 2.4. To authorise the Director Regeneration and Environment to purchase Title Indemnity Insurance as appropriate, *in conjunction with the Director of FICS*

## **3. BACKGROUND**

- 3.1 Meridian Water comprises approximately 85 hectares in the south east of the Borough and is one of the largest developable areas in London. Located within the Central Leaside growth area and the Mayor of London's wider Upper Lee Valley Opportunity Area, it has significant redevelopment potential.
- 3.2 The Council's Core Strategy (2010) identifies the potential for 5,000 new homes and up to 3,000 new jobs to be created in this area, alongside community uses and other infrastructure necessary to support a new sustainable neighbourhood of this scale. With the advent of Crossrail 2, it is anticipated that Meridian Water could accommodate approximately 8,000 new homes.
- 3.3 At the Cabinet meeting on the 29<sup>th</sup> April 2015, authority was delegated (KD 4033 ) to the Director – Regeneration and Environment & the Director of Finance, Resources and Customer Services, to finalise the Heads of Terms pertaining to the acquisition of the site identified in Part 2 of this Report.
- 3.4 In accordance with Property Procedure Rules, the Council is obligated to obtain a Red Book Valuation to substantiate the open market value of land to be acquired and demonstrate Best Value. Accordingly Lambert Smith Hampton (LSH) was commissioned in May 2015 to prepare the Valuation.
- 3.5 The Council also appointed Jones Lang LaSalle in the capacity of land buying agent, to negotiate on the Council's behalf the terms of the acquisition and provide a Supporting Purchase Report that informs a development value for the land.

- 3.6 Trowers and Hamlins LLP, the Council's appointed legal advisor has worked with the vendor's solicitors to prepare a suite of documents to effect the purchase. They have also advised the Council on risks associated with the acquisition.
- 3.7 AMEC Foster Wheeler has provided specialist advice regarding the environmental characteristics of the site.
- 3.8 In addition Price Waterhouse Coopers (PWC) has been appointed to provide advice in relation to VAT and SDLT arising from the purchase.
- 3.9 Following the completion of due diligence and receipt of the Red Book Valuation; Members are requested to authorise the unconditional exchange of the Agreement for Sale and complete the purchase.

#### **The Terms of the Agreement for Sale**

- 3.10 The Heads of Terms are consistent with the draft which was presented to Cabinet on the 29<sup>th</sup> April 2015, with the exception of minor material changes, which are described in Part 2 of this report.
- 3.11 The site is sold as freehold and comprises industrial buildings which are subject to a number of occupational leases. All the leases are excluded from security of tenure conferred by the 1954 Landlord and Tenant Act. As such, the leases either expire 6 months after the completion date or contain a landlord's 6 month rolling break clause (notice period) that will enable the council to gain possession.
- 3.12 The vendor will continue to manage the property in accordance with the vendor's normal management practice between exchange and completion. Following completion the council will be responsible for the collection of rent and arrears, management and will need to secure vacant possession in time for development.
- 3.13 The land will be acquired as a 'transfer of a going concern' (TOGC). In order to purchase land in this manner, the council will have to 'opt to tax' in advance of the purchase. This is described further in Part 2 of this report.
- 3.14 The Heads of Terms provided the basis for the drafting the Agreement for Sale, the Option Agreement and all other documents associated with the transaction, which are further described in Part 2 of this report.
- 3.15 The purchase transaction is to be completed on a deferred payment basis; with a 10% deposit payable on exchange of the unconditional contracts, followed by completion 6 months later.
- 3.16 The fact that the contracts are unconditional means that although technically environmental risks associated with the land are not assumed by the council until completion, the council upon exchange, has committed to complete and therefore take on these liabilities in six months following exchange.
- 3.17 The Option Agreement enables the vendor to purchase an element of the site. The Option is granted on completion of the purchase and the council will grant a 999-

year lease (virtual freehold) to the vendor once the vendor chooses to exercise the Option. The Option Agreement obligates the council to seek a planning permission for all of the acquired land, which must then be remediated and serviced, i.e. utilities and roads are brought to the boundary of the Option Land, within 5 years of entering the Option Agreement. This obligation can be passed to a delivery partner.

### **Due Diligence**

- 3.18 The Council has undertaken due diligence in relation to the site which has included valuing the land, examining the title and leases and has undertaken work to understand the environmental characteristics of the site. Further site investigations and condition surveys will be undertaken following the exchange of Contracts in advance of completion.

### **Title and leases**

- 3.19 Trowers and Hamlins LLP in May 2015 examined the title and occupational leases and their report is annexed to Part 2 of this report. The review of the title has revealed a historic overage agreement dating back to 2004; between the current owner and the predecessor in title. Trowers and Hamlins has advised that the terms of the overage provision do not apply and is excluded in the Deed of Transfer. However, given the significant value of the site, as a matter of prudence, the council is intending to take out title indemnity insurance to mitigate the low risk and probability of a future claim. Furthermore it will provide prospective developers (purchasers) and mortgage companies with the assurance of nil liability in this regard. The title register also lists restrictive covenants; similarly the risk will be covered by indemnity insurance.
- 3.20 The Report on the Occupational Leases confirms none of the tenants benefit from security of tenure.

### **Land Valuation**

- 3.21 In accordance with the council's Property Procedure Rules, Lambert Smith Hampton was commissioned in May 2015 to provide a Red Book Valuation. The Land Valuation corroborates the purchase price detailed in the Heads of Terms. The Valuation Report is annexed to Part 2 of this Report.

### **Environmental**

- 3.22 The vendor commissioned URS Infrastructure and Environment UK Ltd in January 2015 to undertake site investigation works to describe the site conditions. Upon exchange the council will have reliance on this investigation.
- 3.23 The council then commissioned AMEC Foster Wheeler to review the Site Investigations Report prepared by URS; a gap analysis was subsequently undertaken which has identified further investigative work. AMEC Foster Wheeler has also prepared a remediation cost constraints plan which is annexed to Part 2 of this Report and has informed all valuation work.



- 3.24 In addition Trowers and Hamblins provided advice on the environmental liabilities associated with the site that the council will inherit upon completion. This advice is further described in Part 2 of this Report, where the advice is also annexed.
- 3.25 The site is also susceptible to flooding, the majority of the site is within flood zone 3 (the most severe) and a small part is within flood zone 1 (the least severe). The council has been in dialogue with the Environment Agency and measures will be put in place within the development to mitigate the risk of flooding. AMEC Foster Wheeler has prepared a Flood Risk Assessment Report which is annexed in Part 2 of this Report including further guidance from the Environment Agency which is also annexed.

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

The following options have been considered:

- 4.1 Declining the possible purchase of the land potentially available to the council has been considered, but rejected due to the uncertain timescales associated with the vendor bringing the land to market and securing development and consequent benefits for the community.
- 4.2 The use of compulsory purchase powers to acquire the land that comprises the opportunity has been considered, but this is not the council's first preference given the negotiations that have taken place with the land-owner, terms have been agreed and the Agreement for Sale is drafted.

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

- 5.1 The acquisition of the site will enable the council to exercise control over the land within the Meridian Water Masterplan area, which will help accelerate housing delivery.
- 5.2 To provide a greater level of certainty over the timescales associated with the development of Meridian Water and to increase developer and stakeholder confidence in the delivery of the Masterplan.
- 5.3 The purchase of the site will underpin the delivery of the Meridian Water Housing Zone and this land can provide circa 1,500 residential units in a mixed use development.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS**

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

- 6.1.1 Please see Part 2 of this Report.

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

- 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. The recommendations detailed in this report are in accordance with the Council's powers.

- 6.2.2 Section 120(1)(b) of the Local Government Act 1972 (LGA) gives Councils a specific power to acquire land for the benefit, improvement or development of their area. In addition, the Council has powers under section 227 of the Town and Country Planning Act 1990 (as amended) to acquire land by agreement for 'planning purposes'. Where agreement cannot be reached, the Council has the power under various enactments to acquire land compulsorily using a Compulsory Purchase Order. However, CPO is a lengthy process and a measure of last resort. It is therefore noted that purchase by agreement has been pursued in this case.
- 6.2.3 When considering an acquisition of property the Council must act in accordance with its Property Procedure Rules, including obtaining advice that the terms negotiated represent value for money and the property is suitable for intended use. In that respect, the advice from the external property consultants Jones Lang LaSalle (JLL) and valuation provided by Lambert Smith Hampton must be considered.
- 6.2.4 Land disposals and lettings need to comply with the Council's statutory duty to obtain 'best consideration' pursuant to Section 123 of the Local Government Act 1972. This will apply to the option to grant the proposed 999 year lease. The proposed letting must also comply with the Council's Property Procedure Rules.

### **6.3 Property Implications**

- 6.3.1 Strategic Property Services support the acquisition of the 5.99 hectare site in order to deliver up to 1,500 homes.
- 6.3.2 The council has appointed external property consultants Jones Lang LaSalle (JLL) to negotiate and finalise Heads of Terms and provide property, valuation, appraisal and consultancy advice to the Regeneration Programme Director. Strategic Property Services commentary is therefore limited to governance arrangements and high level implications arising from both Part 1 and Part 2 of this Report.
- 6.3.3 The council has appointed valuers, Lambert Smith Hampton (LSH) to undertake a formal valuation of the site (and option agreement) based on agreed Heads of Terms and independently verify that the purchase price is at or below Market Value and in all other respects represents an acceptable transaction.
- 6.3.4 The council's property consultant (JLL) and valuers (LSH) need to satisfy themselves and the council that thorough and comprehensive due diligence investigations and risk appraisals have been completed on the site prior to exchange of contracts. If such investigations are outstanding or unable to be produced prior to exchange of contracts then the report should explicitly state what the risks have yet to be quantified and their potential severity and impact on viability including obligations under the option agreement, achievable town planning density, flood risk and title status.
- 6.3.5 The financial 'holding costs' of the acquisition should be adequately considered within the overall project budget, taking into consideration, the potentially lengthy timeframe for remediation, onward sale and redevelopment timeframe.
- 6.3.6 The council's property consultant (JLL) need to satisfy themselves and the council that any environmental risks associated with land remediation and other

decontamination costs, liabilities and claims from third parties, either now or in the future have been mitigated as far as is reasonably practicable.

## 7. KEY RISKS

Key risks considered arise from the liabilities associated with the acquisition and development of the site, conversely not acquiring the site poses a risk to the council's ability to deliver the vision for Meridian Water.

### Financial

- 7.1 The cost of acquiring the land cannot be recovered from the value generated from redeveloping the site.

**This risk is mitigated by receiving detailed valuation advice from Lambert Hampton Smith who is able to demonstrate via the development appraisal that the land price can be recovered. The Red Book Valuation for the site confirms that the current Market Value for the land is in accordance with the price that the council has agreed to buy the site for and therefore represents Best Value.**

- 7.2. Development appraisals are sensitive to fluctuations in build cost and housing prices, because the developments are built out over time.

**This risk will be mitigated through the actual development process where current assumptions, such as the quantum of affordable housing may need to be adjusted to secure the expected return. Such risks are further mitigated by the Housing Zone Status that has secured grant for affordable housing and loans for remediation.**

- 7.3. Following a Site Investigation Study prepared by the vendor, the Council appointed AMEC Foster Wheeler to review the Study and prepare a constraints risk register and associated cost plan, to understand the remediation and abnormal costs associated with the site. These costs have been factored into the Lambert Smith Hampton development appraisal. If actual costs to remediate the sites are greater than those anticipated, then this will impact on the anticipated receipt to the Council. Further site investigations are scheduled to better understand the nature of the site.

**This risk can be mitigated by modifying the nature of the development to drive up value, to neutralise any higher than anticipated costs of remediation, also the Housing Zone provides funding to address higher than expected remediation costs. Elements of this risk can be passed onto a delivery partner.**

### Development

- 7.4 The development assumptions are based on Angel Road Station being upgraded in concert with investment in the railway line to achieve a 4-trains-per-hour service. Should the rail investment be delayed or fail to materialise, then the development densities assumed will not be able to be achieved. Not to achieve the

development assumptions will affect land value and the ability for the council to recover its costs.

**This risk has been mitigated by taking plans for three tracking and the new station to an advanced stage of agreement with Network Rail and the Greater London Authority (GLA). The final funding package for three tracking is to be agreed by the end of June 2015 and has been agreed for the station.**

- 7.5 There is a risk that development could be affected by flooding given the provisions of the Strategic Flood Risk Assessment, where some of the land is with-in a 1:100 year flood risk area.

**This risk can be mitigated through the measures set out in the Masterplan and through the implementation of appropriate design solutions. In short, this particularly allows for an appropriate amount of flood storage. Providing that proper attention is paid to design, which will be tested by the Environment Agency through the planning process, there is no reason why residential development here should prove any more problematical than anywhere else, in so far as flood-risk is concerned.**

- 7.6 There is currently no established residential market at Meridian Water and therefore levels of sales and values assumed in the development appraisal, produced by Lambert Smith Hampton, are yet to be tested.

**This risk is mitigated by the financial appraisal work undertaken by Lambert Smith Hampton which, relies in part on numerous large scale comparable developments and smaller local developments to determine sales values. All sales values are based upon the value of new homes today and do not speculate on future values/rise in the market.**

## **8. IMPACT ON COUNCIL PRIORITIES**

- 8.1 The acquisition of the land described in this report would enable the early development of new homes in Meridian Water. The subsequent development would be guided by the Meridian Water Masterplan which, amongst other objectives, seeks to achieve fairness for all, sustainable growth and development of strong communities.

## **9. EQUALITIES IMPACT IMPLICATIONS**

- 9.1 The draft Meridian Water Masterplan was subject to an initial Equalities Impact assessment/Analysis (EqIA) to ensure that consultation promoted equal opportunities. During the master-planning process, demographic data was collected in relation to residents of Edmonton in order to determine which groups to target for community engagement and to also help assess the equalities issues the Masterplan proposals will need to consider.
- 9.2 These issues were summarised in the final EqIA report that was reported to the Local Plan Cabinet Sub-Committee at its 11<sup>th</sup> September 2013 meeting.
- 9.3 Any further equalities impact issues will be examined at the planning application stage on individual sites.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

- 10.1 Delivery of a comprehensive regeneration scheme at Meridian Water is a corporate priority within the Council's Business Plan for 2012-15. Completion of the Masterplan, and the delivery of phased infrastructure improvements including increased rail services, station improvements and new homes will help to meet Outcome 2.10 of the Business Plan; to improve the quality of life of residents through the regeneration of priority areas and to promote growth and sustainability.

## **11 PUBLIC HEALTH IMPLICATIONS**

- 11.1 There are no Public Health Implications directly arising from this land acquisition, but the intention to remediate and develop the site will have positive benefits.

## **12. HEALTH AND SAFETY IMPLICATIONS**

- 12.1 A component of the Masterplan concerns the need to improve access to healthy living corridors. Meridian Water adjoins the Lee Valley Regional Park, the rivers and open spaces within which offer significant recreational and environmental benefits as do the series of reservoirs immediately to the south of the area. The Masterplan seeks to maximise this potential for existing and new residents by improving east/west and north/south connections through a network of open spaces. Improved connections will help deliver healthy living into the heart of the new development and reconnect the nearby communities with the Park. The Masterplan creates opportunities for formal and informal recreation and leisure, urban agriculture and outdoor learning. It draws the community and landscape together combining healthy living into the daily structure and form of Meridian Water. In accordance with the Core Strategy it required the delivery of new health facilities to support the new communities and suggests these should be located within Meridian Central neighbourhood or where benefits from the co-location of services can most appropriately be realised.

## **Background Papers**

None

