

**MUNICIPAL YEAR 2016/2017 REPORT NO.**

**PORTFOLIO DECISION OF:**

- Director of Finance, Resources and Customer Services
- Director of Health, Housing and Adult Social Care
- Cabinet Member for Finance
- Cabinet Member for Housing and Estate Regeneration

<b>Agenda – Part: 1</b>	<b>Item:</b>
<b>Subject: Investment in Private Rented Sector – Loan Instalment 9</b>	
<b>Wards: All</b> <b>Key Decision No: 4426</b>	
<b>Cabinet Member consulted: Cllr Lemonides and Cllr Oykener</b>	

**REPORT OF:**

Director of Finance, Resources and Customer Services

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**1. EXECUTIVE SUMMARY**

- 1.1 In February 2014 Cabinet agreed to establish a wholly owned local authority company to acquire and manage properties that the Council can use to discharge its statutory duties. This was in response to the significant temporary accommodation budget pressures facing the Council, resulting from an increase in demand for housing and rising rental prices.
- 1.2 Cabinet, and later Council, agreed the financial model, which provided authority for the Council to borrow funding up to an agreed amount and lend this to the company in a number of instalments. The first instalment of the loan was agreed in February 2014 and authority for further instalments was delegated to the Director of Finance, Resources and Customer Services; Director of Health, Housing and Adult Social Care; Cabinet Member for Finance; and Cabinet Member for Housing and Estate Regeneration.
- 1.3 The company has been in operation since March 2014 and good progress has been made. The company has an established acquisition process in place and now requires the next instalment of the loan to continue the acquisition of properties in line with the agreed criteria.
- 1.4 This report seeks approval for the next instalment of the loan to the company – Housing Gateway Limited – in line with the delegated authority granted in KD3782 and in accordance with the terms of the Facility Letter.

## **2. RECOMMENDATIONS**

- 2.1 Note that Cabinet delegated authority to the Director of Finance, Resources and Customer Services; Director of Health, Housing and Adult Social Care; Cabinet Member for Finance; and Cabinet Member for Housing and Estate Regeneration, to finalise the timing, profile of acquisitions and the detail of the funding arrangements for each phase of the portfolio development, based on the most viable finance stream available, type and level of housing need at that time, and the Council's best interests (KD 3782).
- 2.2 Note that the terms of the Facility Letter were agreed by the Director of Finance, Resources and Customer Services; Director of Health, Housing and Adult Social Care; Cabinet Member for Finance; and Cabinet Member for Housing and Estate Regeneration in September 2014 and the Housing Gateway Board of Directors in April 2014.
- 2.3 Agree to access the next instalment of the loan and on-lend this to Housing Gateway Limited in accordance with the Facility Letter.
- 2.4 Note that the treasury management decisions regarding the Council's borrowing to enable the on-lending to Housing Gateway Limited will be subject to the Council's existing arrangements for governance and specialist advice.

## **3. BACKGROUND**

- 3.1 In February 2014 Cabinet agreed to establish a wholly owned local authority company to own and manage a portfolio of houses, to make available to those residents primarily with housing need or at risk of homelessness (KD 3782). Cabinet agreed that properties would be purchased on a case by case basis using funding from the Public Works Loan Board (PWLB) or via external finance depending on the most viable option at the time of purchase.
- 3.2 In addition to the initial loan facility, two further loans have been agreed increasing the companies' loan facility.
- 3.3 Cabinet agreed to delegate to the Director of Finance, Resources and Customer Services; Director of Health, Housing and Adult Social Care; Cabinet Member for Finance; and Cabinet Member for Housing and Estate Regeneration, authority to finalise the timing, profile of acquisitions and detail of the funding arrangements. This included the terms of the loan agreement between the Council and the Company.

- 3.4 The local authority company - Housing Gateway Limited -- has an established acquisition process in place. As 391 acquisitions have been completed, the company requires the next instalment of the loan to enable the acquisition process to continue. This will mark the ninth instalment of the loan.
- 3.5 A Facility Letter was agreed in September 2014 by the Director of Finance, Resources and Customer Services; Director of Health, Housing and Adult Social Care; Cabinet Member for Finance; and Cabinet Member for Housing and Estate Regeneration acting for the Council, and by the Housing Gateway Board of Directors in April 2014. This provides the mechanism for a loan agreement between the Council and Housing Gateway Limited.
- 3.6 The Facility Letter sets out the terms of the loan agreement. This stipulates that the loan can only be used by Housing Gateway Limited to support the activities agreed by the shareholder. In line with the Cabinet decision, the remit of Housing Gateway Limited is to acquire and manage properties, for which the Council has full nomination rights and can use these properties to discharge its statutory duties. The loan can therefore only be used for this purpose, unless the shareholder agrees to additional activities at a later date.
- 3.7 The Facility Letter enables the loan to be given to Housing Gateway Limited in instalments to minimise unnecessary interest repayment costs before the company has properties and tenants in place. The Facility Letter therefore contains a schedule that can be completed for every separate instalment. The loan has now almost reached the limit set in the eighth Facility Letter, so the ninth instalment of the loan is required. The terms of the Facility Letter will remain unchanged but the Facility Letter will be re-issued to the agreed amount.
- 3.8 The ninth instalment of the loan will enable Housing Gateway to continue to acquire properties that can then be used by the Council to discharge its statutory homeless duties.

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

- 4.1 As outlined in KD 3782, a number of alternative options were considered in the development of the Investment in Private Rented Sector business case.
- 4.2 In the development of the Facility Letter a number of alternative options were also considered, including a loan with a single instalment or the absence of a formal agreement. These options were discounted, as a formal agreement safeguards the interests of both the Council and Housing Gateway and the ability to access the loan in instalments provides greater flexibility.

## **5. REASONS FOR RECOMMENDATIONS**

- Cabinet approved the business case, financial model and overall financial envelope in February 2014 as per KD 3782.
- Housing Gateway Limited was established in February 2014 and the company is now fully operational. The acquisition process is well established and the next phase of the loan is required to enable the acquisitions to continue.
- A Facility Letter has been agreed by the Council and Housing Gateway Limited which sets out the terms of the loan agreement and provides clear terms of repayment.
- The Facility Letter enables Housing Gateway Limited to access the ninth instalment of the loan in a series of instalments, under Schedule 3 of the Facility Letter. This will enable the company to access funding to coincide with the speed of acquisitions and better manage its cash flow.

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

### **6.1 Financial Implications**

- 6.1.1 The overall loan value was agreed by Cabinet in February 2014 (KD 3782) and authority was delegated to agree the instalments of the loans as they are required. Furthermore in November 2016, Council agreed to further extend the overall loan value and add the borrowing for the Investment in Private Rented Sector scheme to the capital works programme. The ninth instalment of the loan to the company falls within the budget envelope set by Council in November 2016.
- 6.1.2 The Council will earmark the loans raised on behalf of the Company. The Treasury Management team will minimise the cost of interest costs and with reference to future interest trends. Borrowing on behalf of the company will be undertaken in conjunction with the Council's overall borrowing strategy.
- 6.1.2 The Council will also provide a line of credit to the company to facilitate its working capital and cash flow. This will be charged at the prevailing bank rate.

### **6.2 Legal Implications**

6.2.1 The Council has power to establish and participate in Housing Gateway Limited in accordance with Section 1 of the Localism Act 2011 and section 95 of the Local Government Act 2003. In addition, section 111 of the Local Government Act 1972 permits a local authority to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or right) which is calculated to facilitate, or is conducive or incidental to the discharge of any of their functions. It also has the necessary powers to borrow funding pursuant to Section 1 of the Local Government Act 2003 and to provide a loan, grant funding and/or share capital to the SPV under Section 24 & 25 of the Local Government Act 1988.

6.2.2 The Facility letter is in a form approved by the Assistant Director of Legal Services.

### **6.3 Property Implications**

None.

## **7. KEY RISKS**

- **The interest rate of the loan the Council can access to then on-lend to Housing Gateway Limited is not at a constant rate so the Council has to subsidise the loan rate of this changes over the course of the loan period.** This has been addressed by providing the flexibility to set the interest rate for each instalment of the loan, as determined by Schedule 3 of the Facility Letter.
- **Housing needs change and Housing Gateway Limited is no longer required to manage a property portfolio for use by the Council.** This has been mitigated by providing the flexibility for early repayment of the loan, for example if Housing Gateway Limited needed to sale a property to release capital.
- **The business case assumptions are not realised and the company does not achieve the objectives set.** This has been mitigated by commissioning an external review of the company's operation and by the exit strategies set out in KD 3782 to approve the original business model.

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

### **8.1 Fairness for All**

The formation of Housing Gateway Limited enables the Council to access finance to increase the supply of good quality, value for money housing in the borough, to meet the objectives set out in Enfield's Housing Strategy (2012-2027). By increasing the

supply of quality accommodation within the Council's control, this will enable the Council to discharge its statutory duties or prevent homelessness and increase access to secure accommodation for some of the most vulnerable residents in the borough. The Facility Letter and grant of a loan to Housing Gateway Limited is a key component of the model agreed by Cabinet and essential to the successful operation of the company.

## **8.2 Growth and Sustainability**

Access to good quality, stable housing is a key aspect of a person's health and wellbeing. By using long term finance the Council will remove concerns over refinancing or the need to sell properties after a few years. Furthermore by ensuring properties are maintained to a good standard, the scheme will be able to increase the supply of quality accommodation and in turn improve health and wellbeing and prospects of securing employment.

## **8.3 Strong Communities**

By increasing the supply of quality homes that the Council can access within the borough and the surrounding area, this will increase opportunities for local residents to access employment and training and thus reduce the likelihood of them requiring additional services from the Council.

## **9. EQUALITIES IMPACT IMPLICATIONS**

An overarching Equalities Impact Assessment was undertaken as part of KD 3782.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

Through the establishment of Housing Gateway Limited the Council has the opportunity to reduce the number of households in temporary accommodation and provide quality accommodation for some of the most vulnerable residents. This in turn, provides the opportunity for the Council to make a positive impact for wider objectives, such as reducing employment and improving health and wellbeing.

## **11. PUBLIC HEALTH IMPLICATIONS**

By increasing the supply of good quality housing in the borough across tenures, health and wellbeing of individuals will be improved. All properties purchased will be fit for purpose or refurbished so that they fall in line with the Council's decent homes standard. Where investment is used to provide quality housing to enable the Council to discharge its statutory homelessness duties, residents selected for these properties

will be most at need and therefore most affected by the Government's housing benefit cap.

**Background Papers**

None.





**MUNICIPAL YEAR 2016/2017 REPORT NO.**

**ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY**

**PORTFOLIO DECISION OF:**

Cllr Ahmet Oyken  
Cabinet Member for Housing & Housing Regeneration  
Cllr Dino Lemonides,  
Cabinet Member for Finance & Efficiency

**Agenda – Part: 1**

**KD Num: 4282**

**Subject:** Appointment of a Building Contractor for the construction of 13 houses at Padstow Road, Perry Mead & Hedge Hill

**Wards:** Highlands

**REPORT OF:**

Director – Regeneration & Environment  
Director of Finance, Resources & Customer Services

Contact officer and telephone number: Nick Fletcher (tel: 0208 379 1781)

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**1. EXECUTIVE SUMMARY**

- 1.1 In March 2016, by approval of the 'Small Housing Sites Phase 2a Delivery' report (KD4161) Cabinet delegated authority to approve expenditure of the final scheme budgets and the appointment of a building contractor for the construction of 15 houses at Ordnance Road (for affordable rent), and the 13 houses at Padstow Road, Perry Mead and Hedge Hill (for private sale).
- 1.2 The 13 houses which will be developed on the three garage sites at Padstow Road, and garage sites at Perry Mead and Hedge Hill will be the first ever private sale developments undertaken by the Council. The objective of the Padstow Road, Perry Mead and Hedge Hill "PPH" development is to generate revenue for the Housing Revenue Account.
- 1.3 The Council has undertaken a procurement process to appoint a building contractor. Tenders have been received and evaluated, and due diligence has been undertaken on the preferred contractor. This report recommends that the Council enters into contract with the most economically advantageous tenderer. The most economically advantageous tender is within the Council's budget that was agreed by Cabinet in March 2016.

## **2. RECOMMENDATIONS**

It is recommended that;

- 2.1 The building contractor with the most economically advantageous tender is awarded the contract to construct the 13 houses at Padstow Road, Perry Mead and Hedge Hill as set out in paragraphs 5.1-5.3.

## **3. BACKGROUND**

- 3.1 Cabinet authorised the funding of the Council's Small Housing Sites Phase 2: Group A developments in March 2016. This initial group of Phase 2 of the Small Housing Sites Rolling Programme will deliver 28 houses; 15 of which will be for affordable rent at Ordnance Road, and 13 which will be for private sale at Padstow Road, Perry Mead and Hedge Hill.
- 3.2 Planning consent for the Council's proposed development of 13 new houses for private sale across the schemes, through three separate planning applications for Padstow Road, for Perry Mead and for Hedge Hill have now been granted.
- 3.3 The Council's design team has prepared detailed design information, and the Council has undertaken a procurement process to appoint a building contractor. Tenders have been received and evaluated, and due diligence has been undertaken on the preferred contractor.
- 3.4 This report recommends that the Council enters into contract with the most economically advantageous tenderer to construct the 13 new houses at Padstow Road, Perry Mead and Hedge Hill, 'PPH'.

## **TENDERING PROCESS**

- 3.5 In line with the requirements in the Council's Contract Procedure Rules for works under the OJEU threshold, five contractors were invited to submit a tender, having informally expressed an interest.
- 3.6 The Council opted for a single stage tendering process, which required contractors to price the works and propose a fixed price in their tender submission. The contractors were given eight weeks to return a tender submission through the Council's e-tendering portal.

- 3.7 The Council has invited tenders for a JCT Design & Build form of contract, which passes more design risk onto the contractor.
- 3.8 The Council's architects had prepared a detailed set of RIBA Stage 4b (Old RIBA Stage E) drawn information, and Council officers and QS consultants prepared a set of Employers Requirements and specification which enabled contractors to prepare a tender submission. A number of clarifications were made, and Council officers and the Design Team met the contractors to walk around the sites, for a midway clarification meeting to discuss proposals and the sites in more detail.

### **EVALUATION OF TENDERS**

- 3.9 The Council received five tenders from the five contractors that were invited.
- 3.10 The Council and consultants evaluated the four tenders that were received as per the evaluation and scoring criteria which gave 60% weighting to the fixed price, and 40% weighting to qualitative criteria. The quality weighting was increased from the Ordnance Road project.
- 3.11 For the price evaluation, Points were awarded to the tenderers for their tender price (following corrections for arithmetical errors where appropriate) based on evaluation criteria as set out in the invitation to tender. The lowest price tender was awarded the maximum percentage score available (60%). All other tenderers were awarded scores using the following formula:  $(\text{Lowest Tender Price} / \text{Tenderers Price}) \times 60\%$
- 3.12 For the qualitative evaluation, contractors were required to provide statements on apprentice and training provision, an equal opportunities statement, reporting of health and safety incidents and whether the 52 week programme could be met for which a pass or fail score is given. They were also required to provide written responses to the following for which they were scored out of a total of 40 points:
1. Programme,
  2. Previous Relevant Experience,
  3. Quality,
  4. Risks and mitigation,
  5. Budget.
- 3.13 Details of the tender evaluation contain commercially sensitive information and are included in Part 2 of this report.

- 3.14 The most economically advantageous tender was from Neilcott Construction Limited. Further details on their tender are included in the Part 2 report.
- 3.15 Neilcott Construction were recently appointed by the Council to construct the 15 homes at Ordnance Road and they are making good progress on site.

#### Social Value

- 3.16 Like on Ordnance Road, the preferred contractor has agreed to fund an apprentice in general business administration/customer service or an IT related role and anticipate that the role would be based upon site assisting their Community Manager and undertaking general administrative and document control duties.

#### **PROGRAMME**

- 3.17 The recommended contractor, Neilcott Construction Ltd has proposed a programme of 64 weeks in total, with 14 weeks lead-in and 50 weeks on site. They anticipate a start on site in March 2017 and estimate that handover of completed homes will be in March 2018.

#### Planning Conditions

- 3.18 There are approximately forty planning conditions in each Decision Notice for the three planning applications (approximately 120 in total for the three planning applications). A significant number of these are pre-commencement conditions which the Council's Housing Development & Renewal, Design Team and contractor will work towards discharging.
- 3.19 A planning conditions tracker has been set up, and this will be actioned by the Design Team and the Contractor and deadlines for submission and then discharge by the Enfield Planning Authority (Development Management) will need to be adhered to.
- 3.20 If conditions are not discharged within 8 weeks, HD&R will instruct the contractor to progress, assuming deemed discharge.

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

##### **Alternative procurement processes**

- 4.1 Construction frameworks were considered but discounted given that the value of the project is below the OJEU threshold.

- 4.2 Two stage tendering was considered, especially as it is preferred by most contractors because it is less resource intensive and allows greater scope for negotiation; however a single stage tendering process was undertaken to ensure more certainty for the Council with a fixed price, and to satisfy the Council that a more competitive process has been undertaken. The Council still received five tenders with a single stage process, and can be confident that a competitive process has been undertaken.

#### **Alternative forms of contract**

- 4.3 A traditional form of contract was considered but a Design & Build contract is considered to be most straightforward for the Council, and it reduces the Design Risk for the Council as the client.

#### **Alternative tenure**

- 4.4 Alternative tenure options were considered in the March 2016 Cabinet report 'Small Housing Sites Phase 2: Group A developments in March 2016' (KD4161).
- 4.5 Both private rented and affordable rented tenures were considered however neither option could generate the capital receipt for the HRA. Considering the opportunity to generate relatively high value from this scheme, and the constraints imposed on the HRA Business Plan, private sale can generate a capital receipt to help fund affordable housing in the programme.
- 4.6 The 13 houses as part of the 'PPH' schemes are part of the first group of Phase 2 Small Housing Sites, including Ordnance Road which is an all affordable rented scheme of 15 houses; therefore the 'PPH' schemes are treated as cross subsidy for the HRA Business Plan.

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

- 5.1 The Council has undertaken a competitive tendering exercise to appoint a building contractor to construct the homes at Padstow Road, Perry Mead and Hedge Hill sites.
- 5.2 The most economically advantageous tender is from Neilcott Construction Ltd and this report recommends that the Council awards them the contract.
- 5.3 By authorising the recommendations in this report, construction work can commence during by spring 2017, and Council powers can be used to ensure that all due diligence and third party rights issues can be addressed.

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

### **6.1 Financial Implications**

6.1.1 Please refer to Part 2 of this report

### **6.2 Legal Implications**

6.2.1 The contents of this report constitute a Key Decision as the recommendation to accept the recommended tender for the works will lead to capital expenditure exceeding £250,000. This item has been included in the Key Decision List reference KD 4282. Once approved the decision to proceed will be subject to the usual five day call-in period.

6.2.2 The Council has the power under Section 111 of the Local Government Act 1972 to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.. The Council also has a general power of competence 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.

6.2.3 Throughout the engagement of the service provider, the Council must comply with its obligations with regard to obtaining best value under the Local Government (Best Value Principles) Act 1999.

6.2.4 The resultant legal contracts required in association with this matter must be in a form approved by the Assistant Director (Legal Services and Governance).

6.2.5 As the contract value for the works exceeds £250,000 a performance bond will be required on behalf of the Contractor, and must be executed and received before work starts on site (anticipated to be in September 2016).

### **6.3 Property Implications**

6.3.1 Appointment of a building contractor for the construction of 13 houses at Padstow road, PerryMead and Hedge Hill.

6.3.2 Strategic Property Services supports the initiative to develop on the three garage sites at Padstow road, Perry Mead and Hedge Hill with the aim of generating revenue for the Housing Revenue Account.

6.3.3 This will be the first private sale development undertaken by the Council who have chosen to employ a contractor under a single stage tendering process with a fixed price and JCT Design and Build contract. The aim of this arrangement is to pass design risk to the contractor, however, it should be borne in mind that the Council in becoming a developer are still taking on board certain risks including :

6.3.3.1 The Council, as a developer, does not have a track record in the delivery of market housing and should therefore ensure that appropriately experienced consultants are employed to assist the Council in delivering a product to market which is in demand ,which will sell at the target price with an optimum specification within a reasonable time frame.

6.3.3.2 The desired outcomes in terms of sales values may not be achievable if market sentiment were to change adversely. It is understood however, that the sales figures have been calculated on a conservative basis.

6.3.3.3 If variations to the build contract were required or unforeseen costs arise over and above those within the scope of the Design and Build contract then overall development costs will rise. It is understood however that full due diligence in terms of legal title, town planning , utility services and other matters have been fully investigated ahead of development this risk has been minimised.

6.3.4 In the event that one or all of the above occurring then the allowance for risk and profit could be eroded.

## **7. KEY RISKS**

7.1 There are a number of risks associated with this project, with the Council taking on the role of developer and directly commissioning a contractor through a Design & Build contract, though the JCT form of contract does pass design risk onto the contractor.

7.2 The key risks are set out in Part 2 of this report.

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

### **8.1 Fairness for All**

8.1 New development will have an impact on surrounding residents, particularly in the short term with disruption from construction, and potentially changes to car parking provision. There may also be a loss of communal space or amenity space resulting from proposals.

8.2 To mitigate any negative effects as far as possible, the Council and the appointed architects will work with affected residents to find effective design solutions. New development proposals will aim to provide higher quality landscaping, public realm and amenity space for existing residents.

### **8.2 Growth and Sustainability**

8.3 The project aims to increase housing supply, and to maximise affordable and family housing. The proposed developments will, subject to viability, aim to achieve the tenure and bedroom mix of the Council's Core Strategy.

8.4 The project aims to achieve high quality architectural and landscape design which can positively contribute to the built environment of communities. The new homes will achieve a high level of energy efficiency and sustainability.

### **8.3 Strong Communities**

8.5 The project will see investment into Enfield communities to provide much needed new housing. Local communities will be involved in the process and consulted on design proposals.

## **9. EQUALITY IMPACT IMPLICATIONS**

9.1 As part of the tender, a satisfactory equalities and diversity policy was a pass/fail requirement. The recommended contractor has a comprehensive equalities and diversity policy.

9.2 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 to award a contract to construct the 13 houses.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

10.1 Please refer to Part 2 of this report.

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



11.1 The Council has appointed a Principal Designer, from the consultants Mott MacDonald who is responsible for fulfilling the obligation under the Construction (Design and Management) Regulations 2015. The Principal Designer has and will continue to undertake the required pre-construction activities, and activities during the construction works programme in liaison with the principal contractor.

11.2 The Principal Designer evaluated the qualitative Health & Safety aspects of the tenders, and the preferred contractor Neilcott Construction Ltd scored highly in this area, with a comprehensive methodology for site safety.

## **12. PUBLIC HEALTH IMPLICATIONS**

12.1 This is included in the Small Housing Sites Phase 2: Group A delivery report, authorised by Cabinet in March 2016.

### **Background Papers**

*There are no background papers for this report.*



**MUNICIPAL YEAR 2016/2017 REPORT NO.**

**ACTION TO BE TAKEN UNDER  
DELEGATED AUTHORITY**

**OPERATIONAL DECISION OF:**

Director – Regeneration  
and Environment

Contact officer and telephone number:

Peter Robinson – Contract Manager 0208 379 1884

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**Agenda – Part: 1**

**KD Num: 4415**

**Subject: 140 and 240 Litre Wheeled Bin  
Procurement**

**Wards: N/A**

**1. EXECUTIVE SUMMARY**

- 1.1 This report sets out the background to the proposed contract award of the 140 and 240 litre wheeled bin contract. In compliance with the Council's Contract Procedure Rules the procurement process has been in line with the Public Contract Regulations 2015 ("Regulations").
- 1.2 The recommendation is to award the Contract to the bidder who provided the Most Economically Advantageous Tender ("MEAT"). The proposed Contract will provide 140 and 240 litre wheeled bins required for service delivery of refuse, recycling and organic material collections throughout the Borough.
- 1.3 The contract is in place to provide regular replacements for the existing wheeled bins in use within the borough. It will also enable the supply of wheeled bins if required to support the potential green bin service change taking place in March 2017.

**2. RECOMMENDATIONS**

- 2.1 To award the contract to Bidder B.
- 2.2 To delegate authority to the Director of Regeneration and Environment to finalise and approve the terms of the Contract.

### **3: BACKGROUND**

- 3.1 The Council as a Waste Collection Authority has an obligation to collect residual waste and material for recycling from households within its area including mixed organic waste.
- 3.2 In September 2016 an invitation to further competition was undertaken by the Procurement Hub using a framework contract ESPO 860 in line with corporate contract procedure rules and the Public Contract Regulations 2015 ("Regulations").
- 3.3 By undertaking further competition using a framework contract the Council can simplify its procurement process, remain fully compliant with procurement regulations and be assured that all companies on the framework have met minimum standards required for inclusion such as financial standing and technical ability.
- 3.4 Three Companies submitted bids. These were all compliant and therefore were put forward for evaluation.
- 3.5 During October 2016 the bid submissions were evaluated by an Evaluation Panel comprising of senior Council officers. Bids were evaluated on the basis of the MEAT, with the overall weighted ratio of 55:45 between price and quality respectively.
- 3.6 Bidders were evaluated on the quality component by their written submissions on how they will deliver against the Council's requirements as set out in three method statements comprising of a series of questions covering:
1. Service Operations;
  2. Customer Care, Client Care, Complaints and Rectification;
  3. Operational Health and Safety;
- 3.7 The price component was evaluated on a total composite price of Bin cost, delivery and purchase and removal of unwanted bins arising during the green bin service change.
- 3.8 The overall scores out of 100 for the three bidders are as follows:

Bidder	Quality	Price	Total
A	23.13	53.90	77.02
B	36.88	55.00	91.88
C	23.75	49.13	72.88

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

To purchase directly from the ESPO 860 framework, however this would not provide the opportunity for further competition and would limit Council control through preventing the use of bespoke method statements and service requirements.

## **5. REASONS FOR RECOMMENDATIONS**

To ensure compliance with the UK Supply Contracts Regulations, the maintenance and improvement of service levels, value for money and recycling service and performance.

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

### **6.1 Financial Implications**

See Part 2 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 may do provided that it is not prohibited by legislation and subject to Public Law principles. The contractual arrangements to be put in place are pursuant to these powers.

6.2.2 Provided the tendering and award of the contract has been, as stated in the report, in accordance with the requirement under the ESPO framework - and therefore in compliance with Council's procurement obligations under both the ESPO framework, and procurement law in general - there is negligible, if any risk in awarding the contract as set out in the report.

6.2.3 The resultant contract must be drafted and executed in accordance with the requirements laid down under the ESPO framework, and in accordance with the framework call-off contract.

### **6.3 Property Implications**

None

## **7. KEY RISKS**

7.1 The contract should not only improve efficiencies and value for money but also minimise procurement risk to the Council.

7.2 There is a delivery risk in relation to one supplier providing all bins however in the event of contract termination there are several other providers of bins on the market and a framework contract that enables rapid ordering.

7.3 The call-off arrangement for orders limits financial and service risk to the delivery and payment of the last order.

7.4 The contract procurement was transparent and without discrimination. A full audit trail of the procurement has been recorded.

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

### **8.1 Fairness for All**

The contract will maintain continuity of service for the benefit of all Enfield residents and businesses.

### **8.2 Growth and Sustainability**

The provision of containers will support the service which provides local employment opportunities and waste collection to local businesses.

### **8.3 Strong Communities**

The provision of containers will support the service to maintain a clean borough and better overall environment.

## **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 contract as it is supporting an existing service.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

Service performance will be underpinned by key performance indicators linked to payment.

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

Successful bidder will be required to conform to the site rules when operating within Morson Road depot and to operate in line with its submitted Health and Safety Method statement which will be assessed as part of the evaluation process

## **12. HR IMPLICATIONS**

None

## **13. PUBLIC HEALTH IMPLICATIONS**

Collecting waste in a cost-efficient and effective manner will improve the public realm and therefore public health.

**Background Papers**

None





MUNICIPAL YEAR 2016/2017 REPORT NO.

**ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY**

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

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**Agenda – Part: 1**

**KD Num: 4349**

**Subject: Meridian Water: Angel Road Station – Enter into contract with Network Rail to deliver the station infrastructure**

**Wards: Upper Edmonton**

**1. EXECUTIVE SUMMARY**

- 1.1. New rail infrastructure is crucial to unlocking the potential of over 10,000 new homes and 6,700 jobs at Meridian Water and the new station (“the Station”) is the corner stone of the redevelopment.
- 1.2. Cabinet approval was received in March 2015 for a funding package of £12.3m and authority to enter into agreements with Network Rail (NR) - report number 184 (KD4029). The station scope at this time included relocation of the station south from the existing Angel Road to a more central position within Meridian Water and a simple station specification. The Councils contribution to funding primarily relates to the rail infrastructure of the base station design.
- 1.3. Later in spring 2015 a review of the design revealed a considerable gap in expectations resulting in a change to the design brief and NR has progressed with the design based on the concept provided by Enfield. An initial NR design (AIP / GRIP 3) has now been produced and the next stage is for a formal estimate to be developed (due Feb 2017) and then subsequent NR authority approval (May 2017).
- 1.4. NR now need to commence delivery of the West Anglia Main Line (WAML) improvements and as such need to secure funding from all parties including Enfield.
- 1.5. The Implementation Agreement for the first phase commits towards the base rail infrastructure and must now be signed to allow detail design and physical works to progress. There will be variation / separate agreement for the remaining station works once NR provides commercial clarity and this is expected to be presented to the cabinet between March and May 2017.

**2. RECOMMENDATIONS**

It is recommended that the Director - Regeneration and Environment:

- 2.1 authorises that the Council enter into contract (Implementation Agreement) with Network Rail.

### **3. BACKGROUND**

#### **3.1 STAR and Angel Road Station**

- 3.1.1 Angel Road station is currently located to the North of the A406 and is only accessible from Conduit Lane via a number of stairs and a long pathway running adjacent to the existing Metals and Waste facility. There are no lifts or at grade access to the station and generally suffers from poor lighting. A new station that will replace the existing Angel Road station and this will be the cornerstone of the Meridian Water masterplan.
- 3.1.2 The STAR scheme (known within NR as the West Anglia Main Line (WAML) Infrastructure Improvement Scheme) will deliver a third track between Angel Road and Lee Bridge stations, providing a dedicated track with the capability of delivering two trains per hour between Stratford and Angel Road. This infrastructure will be capable of supporting the improved train frequency needed to support the initial MW housing growth.
- 3.1.3 During 2014 a preferred affordable solution to improve Angel Road station was established as part of the STAR scheme. The option selected was for a new station (to replace the existing Angel Road) to be located centrally to the Meridian Water site to maximise the benefits to the MW project.
- 3.1.4 On 11 March 2015 Cabinet approved report number 184 (KD4029) to proceed with the investment in the Station's development. The Cabinet report provided detail on the funding for the STAR project and the estimated cost for the Angel Road station improvements. Enfield successfully negotiated a £6.9m contribution from the STAR project to its own investment of £11.7m to deliver the preferred option at a total estimated cost of £18.6m.
- 3.1.5 The Cabinet also approved a number of recommendations for delegated authority to enter into agreements with NR to deliver station improvements. This included agreements with Network Rail and there are two contractual stages of investment. Stage 1 relates to design and costing, in the form of a Development Services Agreement (DSA), and Stage 2 is for the funding for the construction delivery, in the form of an Implementation Agreement (IM).

#### **3.2 Meridian Water Enhanced Station**

- 3.2.1 The funding package approved in March 2015 provided for only a basic station design that neither provided for essential 24/7 publicly accessible access over the railway line nor did it provide for a design in keeping with the aspirations to encourage investment in Meridian Water for residential development. The MW project team was instructed to develop a design to achieve these objectives without fundamentally changing the positioning of the base station platform arrangement.
- 3.2.2 In Autumn 2015, the Council's architects produced a concept for an enhanced station reflecting a 24/7 publicly accessible route over the railway line, as well as an enhanced station design in keeping with the ambitions for the residential

development. NR has since accepted this design as the station solution at Meridian Water and progressed with taking the concept and turning this into a full rail design. This has now reached AIP (Approval In Principal) allowing it to start estimating the cost of the works, however this will not be completed for release to Enfield until February 2017.

- 3.2.3 A cabinet paper will need to be presented for approval for the additional station cost beyond the existing authority within the KD4029 cabinet report of March 2015, however this can only take place once NR have provided cost certainty. An initial unconditional price released to Enfield in February 2017 to enable discussions and negotiations, however NR will not be able to release a formal price post investment panel in May 2017. The aim is to seek cabinet approval following receipt of the initial price in February 2017.

### **3.3 Delivery of Rail Works – Entering into Agreement with NR.**

- 3.3.1 It has taken NR longer than anticipated to progress with the design for the enhanced station and to avoid further delays to the overall programme NR is securing funding towards all other works under the WAML improvement programme. This includes entering into contract with DfT, TfL, Haringey and Enfield.
- 3.3.2 The rail infrastructure design and delivery needs be progressed across the WAML project to avoid any further delay. A decision to split the project into two phases was taken originally by Network Rail as it was clear that the development of the final estimate for the Meridian Water Station would not be completed until after the commencement date required for the WAML overall programme. As the Meridian Water station is based on a fixed track design NR have been comfortable with releasing the work in advance of completing the station design.
- 3.3.3 A contract for the works has been agreed with NR and now needs to be signed to allow the works to be progressed.

## **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 **Wait until the enhanced station design is complete and then enter into contract with NR:** This would have serious delays on the delivery of the whole STAR / WAML scheme as NR would be unable to progress with crucial infrastructure works to the line without the context of a station even in its basic form at MW. These works are required to provide the necessary station track work to secure an eventual four trains per hour peak service as a part of the wider STAR scheme. The result of this delay would delay the station (and all infrastructure works on WAML by at least a year (completion May 2020), but the more likely outcome would be for NR (along with other contract parties including the GLA) forcing a compromised (basic) station design.
- 4.2 The council does not have an alternative option if it is to have a station delivered at Meridian Water to support housing delivery.

## **5. REASONS FOR RECOMMENDATIONS**

- 5.1** For the Council to bring forward development in Meridian Water, it is imperative that key enabling transport infrastructure is in place. The station is a key element of the Masterplan and its timely delivery is therefore essential to unlocking large scale housing developments and access to the employment opportunities in the first and subsequent phases of the Meridian Water development.
- 5.2** To achieve this, the council must enter into the Implementation Agreement with NR so that works can be progressed to deliver the track infrastructure for the WAML project. This is imperative to achieve the May 2019 deadline to deliver the Meridian Water station.

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

**6.1 Financial Implications**

Refer to Part 2.

**6.2 Legal Implications**

- 6.2.1** Section 1 of the Localism Act 2011 provides the Council with the power to do anything an individual may do, subject to a number of limitations. This is referred to as the "general power of competence". A local authority may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the benefit of others. This general power of competence provides sufficient power for the Council to be able to contract with Network Rail to deliver the Meridian Water station project.
- 6.2.2** In exercising this power, the Council is still subject to its general duties (such as the fiduciary duty it owes to its local taxpayers) and to the public law requirements in exercising the general power of competence for a proper purpose. The Council has a fiduciary duty to look after the funds entrusted to it and to ensure that its Council tax and rate payer's money is spent appropriately. For that reason, the Council must carefully consider any project it embarks to ensure that it is making decisions based on a proper assessment of risk and rewards/outcomes. This report, and the Trowers & Hamlins LLP legal summary attached at Part 2, contain details of risks and mitigations which the Council will need to consider.
- 6.2.3** The public sector equality duty under section 149 of the Equality Act 2010 requires the Council to have due regard to; (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; and (ii) the need to advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. Section 9 of this report states that an equality impact assessment is in progress.
- 6.2.4** By entering into the Implementation Agreement, the Council will be commissioning works from Network Rail, although it will not become the owner of the output of those works. Under the Public Contracts Regulations 2015

(PCR2015), a works contract with a value in excess of £4,104,394 should generally be subject to advertisement and a competitive procurement exercise. The PCR2015 apply even when the proposed contractor is a public-sector body, such as Network Rail. Under regulation 32(2)(b)(iii) of the PCR2015, the Council may award a contract following a negotiated procedure without advertisement if a particular economic operator (i.e. Network Rail) is the only contractor able to perform the works because of exclusive rights. [Network Rail is the owner of the railway infrastructure and we understand that the Meridian Water Station project is closely intertwined with Network Rail's existing STAR scheme, making the use of a third-party developer impracticable.] When an exemption is used, the Council may consider the submission of a voluntary *ex ante* transparency notice to the Official Journal of the European Union. This puts the market on notice of the proposal to contract with Network Rail and, if 10 clear days are left between the publication of the notice and the entry into the Implementation Agreement, acts as a defence to an application by a challenger to declare the Implementation Agreement ineffective.

### **6.3 Property Implications**

- 6.3.1 Strategic Property Services support the construction of a new Meridian Water station given its importance to unlock the potential of over 10,000 new homes and 6,700 jobs.
- 6.3.2 Bearing in mind the Council's significant and expanding landholdings in Meridian Water, the increase in Passenger Transport Accessibility from PTAL 1 to PTAL 3 should increase the density of permitted development and therefore the value of the Council's current and future land holdings.
- 6.3.3 The Council's funding commitment of £10,609,692 towards the Phase 1 delivery of the station is an essential step to release development and also increasing the value of the land which has already been acquired by delivering the new Meridian Water station into the heart of the MW development.
- 6.3.4 Careful consideration should be given to the impact of the station design in its widest sense such that the proposals are located on Network Rail and Council landholdings only and/or other land within its control. Design should ideally contribute to and not adversely affect third party landholdings or property interests and should take account of rights or light, air, access, over-sailing, easements and wayleaves and avoid blight of third party property wherever practicable.
- 6.3.5 The Council's significant funding contribution to the enhanced Meridian Water station makes sound commercial sense on the basis that following the approval of Barratt's as Masterplan developer these contributions are captured within the Minimum Plot Value the developer is obligated to pay the Council. In the event that the Council's contributions increases through cost inflation it would be prudent to recast these figures to ensure that the delivery of the station still results in a positive financial outcome. SPS understand that the Minimum Plot Value is index linked and therefore there is an inbuilt "hedge" against inflation in any event.

## **6.4 Public Health**

Refer to part 2.

## **7 KEY RISKS**

**7.1 Cost overrun.** There is a risk of cost overrun as this contract is not fixed price and that investigative / exploratory and design works required may attract additional costs (e.g. site investigations). A contingency sum has been calculated by NR to mitigate against cost overrun beyond the DSA capped cost estimate. This is the same process that was agreed for the original DSA and NR have delivered the station design under cost.

**7.2 Delivery programme.** At this stage the enhanced station design needs to be accelerated to catch up with the STAR programme to achieve the May 2018 deadline. NR will be unable to commit to this deadline until the works contracted in the DSA are delivered and NR is ready to enter into an Implementation Agreement which is currently scheduled for August 2016. However, based on an early programming exercise NR have been able to provide some comfort that the works required to deliver the enhanced station can fit within the overall delivery programme and planned possessions for the STAR project.

## **8 IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

Entering into this revised DSA will take the Council a step further towards delivering a new improved transport hub for the local community. Network Rail will deliver the works through its framework contractor on a fully transparent basis and in partnership with the Council. Although the Council is forward funding the additional station costs they will be reimbursed by the master developer.

### **8.2 Growth and Sustainability**

The new Meridian Water station is the trigger to improve transport connectivity and provide a platform for investment and growth for the new development zone, but also through ensuring that access routes are made to existing neighbourhoods.

### **8.3 Strong Communities**

This will enable more people to use Angel Station thereby encouraging growth and reducing reliance upon motorised transport. This in turn will impact upon air quality.

The east-west connectivity provided by the enhanced station design will play an important role in bringing together Meridian Water and existing communities in Edmonton, as well as creating an enhanced sense of community within Meridian Water itself.

## **9 EQUALITY IMPACT IMPLICATIONS**

- 9.1** An equalities impact assessment is in preparation. This will set out the benefits of the improvements to Angel Road Station an accessible station, meeting the needs of the people of all ages. This includes step free access and lifts to each platform creating a fully accessible location to meet the needs of people with mobility issues and sensory impairment(s).

## **10 PERFORMANCE MANAGEMENT IMPLICATIONS**

- 10.1** The delivery and completion of the Meridian Water station for timetable change in May 2018 is ideally timed for the target release of the first homes.

## **11 HEALTH AND SAFETY IMPLICATIONS**

Not Applicable

## **12. PUBLIC HEALTH IMPLICATIONS**

Not Applicable.

### **Background Papers**

### **Supporting Paper**

