

## MUNICIPAL YEAR 2018/2019 REPORT NO.

### ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

### OPERATIONAL DECISION OF:

Executive Director - Place

<b>Agenda – Part: 1</b>	<b>KD Num: 4689</b>
<b>Subject:</b> Meridian Water Zone 1 Bioremediation	
<b>Wards: All</b>	

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## 1. EXECUTIVE SUMMARY

- 1.1 In order to facilitate the delivery of homes for Phase 1 – Meridian Water the Council is under taking remediation activities on the Willoughby Lane and Meridian Way sites. Approval is sought for works as part of the remediation budget approved by Cabinet in KD 4229.
- 1.2 Hydrock Contracting Ltd (“Hydrock”) and Cognition Land and Water Ltd (“Cognition”) have been undertaking critical soil and groundwater remediation works, respectively (approved via KD 3973, KD 4440 and KD 4438). Cadent Gas Limited (formerly National Grid Gas Distribution Limited) (“Cadent”) are undertaking essential diversion and replacement of gas infrastructure (approved via KD 4421 and KD 4439).
- 1.3 Soil Bioremediation did not form part of the original Hydrock or Cognition tendered works or contract.
- 1.4 Approval is sought to appoint Cognition to carry out bio remediation of soil at Willoughby Lane as a matter of urgency following a recommendation by the Environment Agency that this work must be completed this summer to avoid possible soil contamination if the stock pile remains on site over the winter period.

## 2. RECOMMENDATIONS

It is recommended that the Executive Director – Place:

- 2.1 Approve the award of a contract to Cognition Land and Water Limited to undertake bioremediation works at Willoughby Lane, such works to be funded by the remediation budget approved by Cabinet in KD 4229.
- 2.2 Delegates authority to the Director of Law and Governance to approve any consequential legal agreements as required.

### **3.1 The Site**

- 3.1.1 Meridian Water is a pivotal regeneration scheme, which has the potential to accommodate over 10,000 new homes and thousands of new jobs by 2030. The Meridian Water Masterplan was adopted in 2013 as Planning and Urban Design Guidance - Material Consideration and provides a framework for the delivery of this new community adopted by the council in July 2013 (Key Decision: 3699).
- 3.1.2 The Willoughby Lane site was formerly used for the production of town gas. The site is to be redeveloped for housing, with areas of public open space and a new railway station. The first phase of construction is intended to commence on the Willoughby Lane site in 2019, with further phases to follow.
- 3.1.3 The site's historic use as a gasworks has resulted in contamination presence, for which there are remediation strategies to return the sites into beneficial use. A site investigation and remediation budget for the Willoughby Lane site was approved as part of the wider Meridian Water budget in February 2016 (Key Decision: 4229).
- 3.1.4 A remediation contractor framework was procured and a contractor was selected from this framework (Hydrock Contracting via Key Decision: 4438 – note that Hydrock Contracting changed their name to QDS Contracting in January 2018) to carry out soil remediation. There are further works which the Council is delivering outside of this contract which include the remediation of shallow groundwater (by Cognition via Key Decisions: 3973 and 4440). Consultant Wood was selected to undertake site investigations, remedial strategies and oversee the remediation as client's representative (via Key Decisions: 4109 and 4440). Wood was appointed via a direct call-off from the Crown Commercial Service Framework for Environmental and Sustainability Advice, Support and Delivery Services (Ref: RM830 – Lot 16 Built Environment) to support the delivery of the Meridian Water project. Cadent (formerly National Grid) was appointed as a direct call-off (due to them being the only option as they own the equipment) to divert key gas infrastructure and design & build new gas infrastructure (National Grid via Key Decisions: 4421 and 4439).

Bio remediation was not included within the scope of previously let contracts.

- 3.1.5 On 13<sup>th</sup> March 2018, QDS Contracting went into administration prior to completing Phase 1 of the soils remediation works. The Administrators immediately took all staff and equipment off-site and ceased work.
- 3.1.6 QDS Contracting also were due to carry out time and weather critical bioremediation trials due to 5000m<sup>3</sup> of grossly contaminated soils associated with removing obstructions that would have hindered development of the site.

QDS Contracting did not start this work which has been subsequently completed by Cognition. Due to the programme pressure, Cognition were also deemed as the only practical and sensible option to complete the trials.

- 3.1.7 Procurement's initial advice regarding bio remediation works was to tender these via the Remediation Framework. This was the approach commenced in March 2018 however upon receipt of the letter of 3 July from the Environment Agency this work is deemed critical as there is now a regulatory requirement to prevent Enfield being prosecuted for a breach of Waste Management Regulations.

### **3.2 Scope of Work**

- 3.2.1 Willoughby Lane's soils remediation programme consists of Phase 1, Phase 1b and Phase 2. Soil Bio remediation works has always been seen as an ancillary activity to the main soil and groundwater remediation activities and would be subject to a separate contract.

- 3.2.2 Warm weather where the bacteria involved in bioremediation are active is May to October. Bioremediation can take a full six months to render soils suitable for use (i.e. safe). Following the initial advice from procurement and Wood, if the bioremediation works is tendered, due to the timescales involved it would not start until improved weather returns in 2019 (i.e. above 10 degrees). If bioremediation is not commenced this summer, then it would represent programme risk because the developer is set to arrive in the latter half of 2019 and also the rail station opens in May 2019; the bioremediation process is odorous and, although controlled, it is advisable to be undertaken with limited human receptors. The Environment Agency have recommended that the bioremediation is undertaken this summer (2018) and do not want the stockpile remaining on site over winter. Cognition have undertaken the bio trials so are familiar with the required works. While Cognition are undertaking the shallow groundwater remediation and are CDM PC, it is proposed that they commence the bioremediation to make use of the warm summer weather in 2018.

- 3.2.3 A separate NEC 3 contract will be enacted with similar terms and conditions to that already in place with Cognition so as to minimise delay.

- 3.2.4 This report recommends that Cognition be appointed to commence the bioremediation immediately this summer with completion planned for December 2018.

### **3.3 Terms and Conditions**

- 3.3.1 The Terms and Conditions for the additional Cognition works will be aligned to the existing ground water remediation contract.

### **3.3 Cost**

3.3.1 The detailed cost can be found in Part 2 of this report.

3.3.2 Should the works achieving regulatory requirements not commence this summer Enfield could be liable to a fine by the EA and soil removal cost of circa £1.2m.

### **3.4 Cost Certainty**

3.4.1 Cost estimates are presented Part 2 of this report.

### **3.5 Conclusion**

3.5.1 To enable the site for development the site must be remediated and part of that includes the remediation of soils. Orders need to be placed with Cognition to enable the development to proceed in accordance with the EA's recommendation.

## **4. ALTERNATIVE OPTIONS CONSIDERED**

### **4.1 Do nothing**

Doing nothing would result in not being able to discharge planning conditions resulting in stalling of delivering key housing in the borough. In addition, Enfield could face prosecution by the EA and be forced to remove the soiled at a cost of circa £1.2m.

### **4.2 Appoint another supplier**

Due to the administration of QDS Contracting appointing a different contractor is impractical and is likely to be significantly more expensive and time consuming thus missing the window of opportunity to bioremediate during 2018. Cognition are already present on-site and are performing the CDM PC role. Cognition have a significant understanding of the Willoughby Lane site and the Council's objectives and have built effective working relationships with key stakeholders – especially the Environment Agency.

### **4.3 Remove soils from site**

If the soils were removed from site it is predicted to cost three to five times the cost of bioremediation which would be beyond expected budgets.

## **5. REASONS FOR RECOMMENDATIONS**

5.1 Only Cognition can undertake the work in the timescales required. To discharge planning conditions related to the development and ensure the developer's programme is not impacted, remediation must be effectively

completed. The resulting suitable for use and safe development of Willoughby Lane will significantly increase the value of the site by mitigating the environmental risks and removing physical constraints to development.

## **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**

See Part 2 report.

### **6.3 Property Implications**

See Part 2 report.

### **6.4 Procurement Implications**

- 6.4.1 All procurement must be undertaken in accordance with the Council's Contract Procedure Rules (CPRs), Public Contract Regulations (2015) and EH Directives.

In accordance with rule 8.1.3 of the CPRs competitive tendering is not required as competition is prevented by government or statutory control.

## **7. KEY RISKS**

- 7.1 The key risks for the Cognition contract extension can be considered as the following:

Financial risk. The Council may not recover its investments into projects. **Mitigation** - The Meridian Water programme has been subject to a comprehensive financial model noted by Cabinet in Report KD4229. The financial model includes for the remediation of Willoughby Lane through years 2017/2018 and 2018/2019. The money being requested to fund Cognition for part of the year 2018/19 forms part of the allocation in the financial model. In fact, continuing to pay for services from the remediation allocation of the Neighbourhood Regeneration Capital Budget reduces the financial risk as it is a critical factor in meeting the Council's objectives on timescales and increasing the value of the Council's land in Meridian Water.

- 7.2 Another key risk is the following:

The developer is set to take over the site in the back half of 2019. If the soils were not remediated by the time they arrive it could present

commercial (delay or excessive & avoidable off-site removal costs) and reputational issues for the council. **Mitigation** – bioremediation in 2018 significantly alleviates the risk associated with this.

- 7.3 Another key risk for the Cognition contract extension can be considered as the following:

The rail station opens in May 2019 and having bioremediation operations in the vicinity is not advisable due to associated unpleasant odours which typically travel eastwards due to the wind direction. This could result in complaints from the public or Network Rail. **Mitigation** – bioremediation in 2018 reduces the likelihood of this risk materialising.

- 7.4 The final and most significant risk to Enfield is the likelihood of prosecution by the EA with a notice served to remove the soil if their recommendation is not complied with. **Mitigation** – engage Cognition to carry out the bio remediation as a matter of urgency.

## **INTERNAL DEPARTMENT IMPLICATIONS/CONSULTATION**

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

#### **8.1 Fairness for All**

- 8.1.1 Meridian Water will deliver fairness for all by providing homes of different tenures, types and sizes to meet the diverse need of the community. In addition, it will create well managed open spaces making Meridian Water a key destination and a place where people want to live, work and play. The decision to terminate the master developer procurement process will enable these benefits to be delivered more quickly and with the potential for a better return for the tax payers of Enfield.

#### **8.2 Growth and Sustainability**

- 8.2.1 Meridian Water will deliver new homes, jobs and infrastructure: both major new physical and transport infrastructure and social infrastructure including medical facilities, schools, nurseries, community centres, parks and gardens. Clean and green energy will be provided by the Lee Valley Heat Network, which will ensure that the development is environmentally sustainable

#### **8.3 Strong Communities**

- 8.3.1 The new neighbourhood at Meridian Water will be designed to foster social cohesion through a series of physical and social interventions, such as direct pedestrian, cycle and other connections into existing neighbouring community for example Angel Edmonton; and position new community facility to encourage a mixed use by both existing communities and future new residents. The new Meridian Water station

and public realm will in itself serve as a hub where existing and new communities will mingle and interact.

## **9. EQUALITY IMPACT IMPLICATIONS**

9.1.1 Equality and diversity considerations will continue to be integrated into the development and delivery work for Meridian Water to make sure they are embedded in the decision-making process and to avoid costly design changes.

9.2 Corporate advice has been sought in regard to equalities and whilst there are no Equalities implications in agreeing the recommendations outlined in this progress report. It is recommended that as part of the review of the Meridian Water Project, the Meridian Water EQIA be reviewed and updated to embed Equalities and Diversity in the future procurement, design and delivery of the project. In addition to this it should be noted that any contracts awarded should include a duty on the successful applicant to assist us with meeting our obligations under the Equalities Act 2010.

## **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 2016-2018. Completion of the Masterplan and the delivery of phased infrastructure improvements including increased rail services, station improvements and new homes will help to meet the strategic priority: "a borough that attracts inward investment and supports sustainable regeneration and growth."

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

11.1 The Meridian Water Project bringing widespread improvements in transport, accessibility, and comprehensive remediation of contaminated brownfield sites will have positive health and safety benefits for the local community and the future residents, workers and leisure users at Meridian Water.

## **12. PUBLIC HEALTH IMPLICATIONS**

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

12.2 Failure to remediate the contaminated soil this summer will increase the risk of further soil contamination should the stock pile be left on site (see A EA letter) over the winter period and may produce noxious odours that affect neighbouring properties.

**13.. HUMAN RESOURCES**

N/A.

**18. BACKGROUND PAPERS**

**18.1 None**

**19 Appendices**

**Appendix 1 – Environment Agency letter of concern recommending immediate remediation of soil**