

**MINUTES OF THE MEETING OF THE OVERVIEW & SCRUTINY COMMITTEE
HELD ON THURSDAY, 27 SEPTEMBER 2018**

COUNCILLORS

PRESENT Derek Levy (Chair), Gina Needs, Doug Taylor,
Charith Gunawardena, Hass Yusuf, Lee David-Sanders and
Joanne Laban

ABSENT Huseyin Akpinar, Tolga Aramaz and Susan Erbil

**STATUTORY
CO-OPTES:** *1 vacancy (Church of England diocese representative), Mr
Simon Goulden (other faiths/denominations representative),
Mr Tony Murphy (Catholic diocese representative), Alicia
Meniru & 1 vacancy (Parent Governor representative) - Italics
Denotes absence*

OFFICERS: Peter George (Programme Director, Meridian Water), John
Baker (Project Director, Meridian Water), Alan Westlake
(Enabling & Building Works Lead, Meridian Water), Susan
O'Connell (Governance & Scrutiny Officer), Stacey Gilmour
(Governance & Scrutiny Secretary)

Also Attending: Councillor Nesil Caliskan (Leader of the Council) and
Councillor Edward Smith
One member of the press

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WELCOME & APOLOGIES

The Chair, Councillor Levy welcomed all attendees to the meeting. The following substitutes were noted:

Councillor Doug Taylor for Councillor Huseyin Akpinar;
Councillor Hass Yusuf for Councillor Tolga Aramaz;
Councillor Charith Gunawardena for Councillor Susan Erbil;
Councillor Joanne Laban for Councillor Edward Smith.

Apologies for absence were received from Co-optees Simon Goulden, Alicia Meniru and Tony Murphy.

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DECLARATIONS OF INTEREST

There were no declarations of interest.

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**CALL- IN OF REPORT: MERIDIAN WATER STATION- PUBLIC REALM
CONSTRUCTION**

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The committee received a report from the Director of Law and Governance outlining details of a call-in received on the decision taken by the Leader of the Council on Meridian Water Station- Public Realm Construction.

NOTED that this report was considered in conjunction with the information in the part 2 agenda.

The Chair invited Councillor Smith to outline the reasons for the call-in. It was noted that this discussion was held in public under the part 1 section of the meeting. Further discussion took place under the part 2 section of the meeting.

1. Councillor Smith outlined the reasons for calling in the decision:

- That the decision taken by the Leader of the Council on the 5th September 2018 to approve the works to the public realm adjacent to the new railway station on meridian Way was based on a completely inadequate report (Reports 1 and 2) by officers that did not provide sufficient background information on the procurement process, programme, specification, cost of the works or risks to the Council involved. The inadequacy of the report showed nothing short of contempt for elected members.
- **The procurement process-** Concern regarding the lack of background information provided in the report regarding the decision taken to carry out a formal procurement process by going out to remediation contractors via the framework which failed instead of civil engineering contractors capable of carrying out the highway works involved? This created major avoidable delays. No timeline was provided in the report regarding when the procurement process started, finished or when the waiver was applied for.
- **Programme-** The Council is now under extreme time pressure to carry out the works by May 2019 when the station is due to open before substantial damages are levied by Network Rail. Delays in appointing a Contractor has meant that the timescales for completing the project have become shorter and shorter. The procurement process should have been undertaken much earlier than it was in order to avoid this situation. Why wasn't this specific works scheme dealt with separately from the main negotiations with Barratt/PCPD in a timely manner rather than waiting in the hope that the main negotiations would be resolved in the Council's favour. No assurances are provided in the report that the public realm works by Volkens Fitzpatrick can actually be completed by the May 2019 deadline.
- **Report-** The lack of essential details regarding the specification of works and the maps included in the reports are also difficult to read. Detailed maps have now been reviewed from which it is now clear that there are significant road works involved in this part of the programme. This was not at all clear from the original maps

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circulated with the report. Members' attention should have been drawn to the Scope of Works.

2. The response of the Leader of the Council, Council Caliskan. She highlighted the following:
 - The opening of the train station has always been crucial to the success of Meridian Water. A delay in this and the public realm works will have a significant effect on this which is why she feels strongly that this is the correct decision.
 - She too had sought clarification from Officers regarding the procurement process as well as the delays (outlined by Councillor Smith in his reasons for Call-in) and full and satisfactory responses had been provided by Officers. She went on to remind the Committee that there had been a procurement process but unfortunately no tenders were received.
3. Other issues highlighted by officers in support of the decision, included:
 - The events to date with Barratt/PCPD which had essentially led to the Council's current position. The Council had relied on Barratt in good faith to deliver their contract which included the public realm works. The Council's investment in the station has always been a catalyst for Meridian Water but is also there to open up the area for regeneration.
 - In order to deliver the new Meridian Water Station, it is essential to complete the adjoining public realm works to allow public access to the station. In order to protect its position, Enfield Council tendered for these works through its Remediation Framework. Following a robust and compliant tendering exercise involving six contractors no submissions were received from the contractors approached. Feedback from the contractors indicated that the timing of the work and proximity of the station development were significant obstacles, also stated was the lack of capacity.
 - VolkertFitzpatrick, the appointed contractor (by Network Rail) to build the new Meridian Water station were approached to submit a cost plan for delivering the public realm works and an estimate for entering into a Pre-Construction Agreement. It made sense that VolkertFitzpatrick were the party Enfield Council turned to as they are now on both sides of the interface project.
 - Given the failure of recent procurement exercises and the need to get a contract in place a waiver of Contract Procedure Rules (CPRs) has been approved by the Head of the Council's P&C Hub to appoint VolkertFitzpatrick as this is essential to avoid Enfield Council incurring significant penalty costs should the station opening be delayed beyond May 2019.
 - To enable achieving a timely completion of the public realm works appointing VFP is considered the most economically advantageous tender route providing both value for money and quality that compliments the station design.

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- Doing nothing would result in not being able to discharge planning conditions (Enfield Council are currently working on the discharging of planning conditions), failure to comply with Enfield's Customer obligations under the implementation agreement with Network Rail to deliver the new Meridian Water Station resulting in stalling of delivering of the station and potentially open the Council liable to penalties from Network Rail.
 - This part of the public realm works was about 'knitting' the station into the public highway. There are a series of obligations on Enfield to provide (such as public, emergency and staff access along with some utilities) known as station public realm interfaces. It is key that these are provided in order for Network rail to commission and bring the new station into service.
4. Questions and comments addressed from members of the Overview and Scrutiny Committee:
- Councillor Laban felt that planning work should have started a lot earlier when it had become apparent that things were turning sour with Barratt. Why had this not been the case?
 - Members at the time had leant towards negotiating with the other bidder PCPD and the Council had been confident that this deal would go ahead.
 - Councillor Needs asked whether there had been any assurances given by VFP that the works would be completed by May 2019.
 - VFP are confident that the works can be completed by May 2019 subject to factors that are external to the e.g. utilities, highways, discharging of planning conditions.
 - Councillor Smith did not accept that a procurement process where no tenders had been received should just be dismissed and felt that this was an issue that needed to be further addressed.
 - Further concerns were raised as to whether VFP could complete the extensive scope of works so that the station can be commissioned and opened on time to avoid incurring serious penalty costs.
 - Councillor Caliskan again emphasised that there had been a robust and compliant procurement process, but the fact remained that no tenders had been received.

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MINUTES OF MEETINGS HELD ON 22 AUGUST 2018 AND 5 SEPTEMBER 2018

AGREED the minutes of the meetings held on 22 August 2018 and 5 September 2018.

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DATES OF FUTURE MEETINGS

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It was noted that an OSC meeting for Thursday 11 October 2018 would now be held as a Business Meeting. Future meetings are shown as follows:

Provisional Call-Ins

Thursday 8 November, 2018
Thursday 6 December, 2018
Thursday 20 December, 2018
Thursday 7 February 2019
Tuesday 12 March 2019
Tuesday 26 March, 2019
Thursday 11 April, 2019

Please note, the business meetings of the Overview & Scrutiny Committee will be held on:

Thursday 11 October, 2018
Wednesday 7 November, 2018
Tuesday 12 February, 2019
Wednesday 3 April, 2019

The Overview & Scrutiny Budget Meeting will be held on:
Tuesday 15 January 2019.

Councillor Levy thanked everyone for attending the meeting.

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EXCLUSION OF PRESS & PUBLIC

Resolved in accordance with the principles of Section 100A (4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 3 of the Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006.

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PART 2 AGENDA CALL-IN RE MERIDIAN WATER STATION - PUBLIC REALM CONSTRUCTION

The Committee received the information provided on the call-in report: Meridian Water Station – Public Realm Construction which had been included in part 2 section of the agenda

NOTED

1. The information was considered in conjunction with the report on the part 1 agenda.
2. Councillor Smith set out the reasons for calling in the decision:

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- Concern regarding the specification given that virtually no information about the scope of the works was provided in the report.
 - No assurances were provided in the report that the negotiated works contract proposed by VolkertFitzpatrick is value for money. Clarification regarding costs was therefore sought.
 - With regards to Terms of Risk, further clarification was required regarding any levying of damages and how high these might be.
3. The response of Councillor Caliskan, Leader of the Council. She highlighted the following:
- Clarification had been sought in relation to costs/figures in the report and these had been verified.
 - Although she did accept the concerns regarding risks/delays, this would have been the case whatever the procurement process. She also added that conversations about penalties are speculative.
4. Other issues highlighted by officers in support of the decision included;
- Further information and clarification on the procurement process and programme of works.
 - Enfield are being supported by an external cost consultant, in monitoring and verifying the scope and cost of the works.
 - Further information was provided, and discussions took place regarding the obligation on Enfield Council to provide certain public realm interfaces in order for Network Rail to Commission and bring the station into service.
 - A budget has been identified for the essential works to be carried out to enable the station to open. Following this there will be a further package to deliver lightening, trees and landscaping, all which will add to the regeneration of the area.
 - The appointment taken forward will be a two-part contract which is pretty normal in construction engineering.
 - The performance of Network Rail is being monitored on a daily basis and to date the project is on time and on budget.
 - Councillor Laban felt that a review by Scrutiny was warranted to look at how the process could have been better. She asked that this be included on the O&SC Work Programme.
 - Councillor Caliskan felt that the detailed response given by Officers had already answered how the problems have been addressed and what the process will entail going forward.
5. The summing up by Councillor Smith: any failed procurement is of concern and needs to be investigated. The whole process of procuring this contractor has been far too slow and should not have taken this long to get to this stage. He asked that O&SC agree to a further report

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coming forward in May 2019 to look at whether the priorities have been achieved.

The Leader, Councillor Caliskan felt that it was a misrepresentation to say that the procurement process had failed when there had been a robust and compliant process but no tenders.

She also reminded Members that regular updates on Meridian Water and the procurement process are a standard Part 2 Agenda item at Cabinet and therefore suggested that all Members read these reports.

Following the discussion and noting all the comments made the Committee and Councillor Smith agreed to allow the original decision to be confirmed without the need to vote

AGREED to confirm the decisions in the report.