

MUNICIPAL YEAR 2018/2019 REPORT NO.

**ACTION TO BE TAKEN UNDER
DELEGATED AUTHORITY**

PORTFOLIO DECISION OF:
Cllr Caliskan Leader of the Council

REPORT OF:
Executive Director
Place

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Agenda – Part: 1	KD Num: 4820
Subject: Meridian Water – National Grid Overage	
Wards: Upper Edmonton	

1. EXECUTIVE SUMMARY

- 1.1 The National Grid overage deed currently in place covering the Willoughby Lane site has the potential to cause excessive administrative burdens and could complicate the Meridian One developer procurement process. Discussions have been held with National Grid and agreement in principle reached for the Council to buy-out this overage deed in relation to Willoughby Lane and extinguish the Council's obligations contained therein.

2. RECOMMENDATIONS

- 2.1 Subject to Council approving the interim budget for Meridian Water at its meeting on 30th January 2019 it is recommended that :
- a. the Council buys out the National Grid overage for Willoughby Lane. on the terms detailed in this report;
 - b. authority to finalise the detailed terms is delegated to the Meridian Water Programme Director in consultation with the Director of Law and Governance and the Director of Finance;
 - c. authority to complete all necessary legal documentation to give effect to this transaction is delegated to the Director of Law and Governance.

3. BACKGROUND

- 3.1 In April 2015, the Willoughby Lane site was acquired by the Council from National Grid. As part of the contractual arrangements the parties entered into an overage deed as is standard industry practice.

This deed provides for the Council to pay National Grid four types of overage: Use Overage, Sale Overage, Area Overage and Revenue Overage.

The deed is detailed and complex. Two terms of the deed are of general importance and should be borne in mind. Firstly, each of the parties agrees at all times to act in good faith towards the other. Secondly, the Council agrees not to structure the development or disposal of the Property in a way that has as a primary objective the avoidance or reduction of overage payable, or the diversion of Revenue Overage to another site owned by the Council.

Details of the terms, and the complexities inherent in them, are detailed in Part 2 to this report.

4. ALTERNATIVE OPTIONS CONSIDERED

Not to buy-out the NG Overage. This would leave the Council open to the administrative burden and uncertainty as described in the Part 2 report

5. REASONS FOR RECOMMENDATIONS

The buy-out of the NG Overage reduces the Council risk and administrative burden

6. COMMENTS FROM OTHER DEPARTMENTS

6.1 Financial Implications

See Part 2

6.2 Legal Implications

Dated 11th January 2019
MD

- 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". The Council has sufficient powers to buy out the overage as anticipated in this report.

- 6.2.2 The Council has a fiduciary duty to look after the funds entrusted to it and to ensure that its Council tax and ratepayers' money is spent appropriately. In considering whether or not to buy out the overage, it is necessary to consider whether the buyout will be a prudent use of the Council's resources both in the short and long term. This report sets out the reasons why officers are of the view that the buyout would be in accordance with the Council's fiduciary duty.
- 6.2.3 The Council has obtained external legal advice from Trowers & Hamlin LLP and Counsel on the interpretation of the overage deed. The Council will require ongoing legal advice in respect of any legal documentation to be entered into in consequence of the recommendations set out in this report.
- 6.2.4 This is a Key Decision. The Council must therefore comply with the Key Decision procedure set out in its constitution.
- 6.2.5 All legal agreements arising from the matters described in this report must be approved in advance of signing by the Director of Law and Governance.

6.3 Property Implications

- 6.3.1 The right of National Grid to receive overage is an interest in land owned by the Council in favour of National Grid. The buyout is considered to be within the general acquisition terms of the Council's Property Procedure Rules and the procedural rules have been followed in this process.
- 6.3.2 The power of acquisition is provided by the Local Government Act 1972 and is considered to be necessary to enable the future disposal by way of long lease/s in the Willoughby Lane site and achieve best consideration in accordance with section 123 of the Act. The Council intend to retain ownership of the freehold interest in the land.
- 6.3.3 The Council's core strategy is to promote housing development at Meridian Water and at Willoughby Lane in particular and this buy out will remove complexity in the development of the site and is therefore considered to support the strategy of housing development.
- 6.3.4 The financial justification for the terms of acquisition are contained in Part 2.
- 6.3.5 The transaction has no implications of the remainder of the Council's corporate or commercial estate and the extinguishment of this agreement has no corporate service implications.

7. KEY RISKS

See Part 2

8. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

8.1.1 Good homes in well-connected neighbourhoods

The Meridian Water scheme aims to provide a well-connected neighbourhood through improvements in both road and rail networks increasing the frequency of services as well as reducing travel times. The scheme will be built in accordance with a very robust design code ensuring high quality of design and build with a range of tenures.

8.1.2 Sustain strong and healthy communities

The Meridian Water regeneration scheme aims to provide robust social infrastructure providing opportunities for the local community to partake in healthy lifestyle choices with access to leisure centres, a cycle network and access to high quality public open spaces.

8.1.3 Build our local economy to create a thriving place

The Meridian Water regeneration scheme aims to bring economic growth, support inward investment, create new jobs and build a strong and sustainable future for the local community.

9. EQUALITIES IMPACT IMPLICATIONS

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.

10. PERFORMANCE AND DATA IMPLICATIONS

Corporate advice has been sought in regard to performance and data implications and an agreement has been reached that no performance/data indicators would be affected.

11. PUBLIC HEALTH IMPLICATIONS

Residents will obviously need to have good access to a reliable source of energy. As long as this is affordable and reliable it will not affect health where the supply is from.