

MUNICIPAL YEAR 2018/2019 REPORT NO. 213

MEETING TITLE AND DATE:

Cabinet 24th April 2019

REPORT OF:

Executive Director Place

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Agenda – Part: 1

Item: 6

Subject: Meridian Water – Meridian One Developer Procurement

**Wards: Upper Edmonton
Key Decision No: 4864**

Cabinet Member consulted: Cllr Nesil Caliskan

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1. EXECUTIVE SUMMARY

- 1.1 Following the withdrawal of Barratts and PCPD as Meridian Water master developer in October 2017 and July 2018 respectively, the Council considered its approach to Meridian Water.
- 1.2 On 25th July 2018 Cabinet made the decision to bring forward three early sites from the Meridian Water project for development (KD4033). The first of these three sites is Phase 1 at Willoughby Lane (known as Meridian One) which already has the benefit of an outline planning consent for 725 residential units and where substantial remediation and enabling works have been carried out. Cabinet approved the procurement of developers to deliver Meridian One using the London Development Panel (“LDP2 Framework”).
- 1.3 As such, a procurement process to secure a development partner to develop the site was launched on 27th September 2018. The process as set out by the LDP2 Framework has been diligently followed.
- 1.4 The project team has been robustly supported and advised by the Council’s procurement and in-house legal teams as well as the Council’s external professional team including Trowers and Hamlins (legal), Lambert Smith Hampton (commercial and property) and Ernst and Young (finance). Stace have also assisted with cost, programme, project management and construction risk advice.
- 1.5 Four bidders were selected to go through to the detailed mini-competition stage and the final bids have been evaluated and scored by the Council’s evaluation panel.
- 1.6 The results of this evaluation are detailed in this report and a recommendation is made to Cabinet to enter into a Development Agreement with the highest scoring bidder to develop the site in accordance with the terms of the procurement.

1. EXECUTIVE SUMMARY...continued

- 1.7 The development agreement will result in a minimum of 725 homes being completed by 2025. The development agreement allows the bidder to submit a planning application for part of the site to increase the number of homes.
- 1.8 Bidders were asked to make four offers incorporating two different levels of affordable housing with and without the Council retaining 75 affordable rent units from within the scheme at nil cost. The responses are detailed here and a recommendation given as to which option of housing mix is accepted.
- 1.9 How Bidder A develops the site and organise their team is important to the Council and so they will be expected to comply with the Construction Charter.
- 1.10 The tender documentation requires the successful bidder to use Energetik to supply all heat requirements.
- 1.11 In order to discharge the Remediation Works Condition the Council must relocate the existing gas Pressure Reducing Station and IP gas Main. This report details the options for this and recommends the subsequent purchase of the National Grid land on which the existing Pressure Reducing Station sits.

2. RECOMMENDATIONS

Cabinet is recommended to:

- 2.1 Approve the selection of Bidder A as the Preferred Developer and authorise the Programme Director – Meridian Water (in consultation with the Director - Law and Governance and the Director - Finance) to enter in to a Development Agreement and ancillary documents for Meridian One.
- 2.2 Prior to signing the Development Agreement authorise the Executive Director of Place (in consultation with the Director - Law and Governance and the Director - Finance) as far as is permitted to enter into discussions with Bidder A to secure up to 50% affordable housing with the Council retaining at least 75 affordable rented units on the site.
- 2.3 That at the conclusion of the discussions referred to above, authority is delegated to the Leader (in consultation with the Executive Director - Place, the Director - Law and Governance and the Director - Finance) to confirm the level of affordable housing for inclusion in the Development Agreement which must fall within a range of 35%-50% in addition to the Council retaining at least 75 affordable rented units.
- 2.4 Subject to the above negotiations being concluded and valuation advice being finalised to delegate authority to: -
 - 2.4.1 The Cabinet Member for Finance to approve the valuation of the retained affordable rented units to be appropriated to the Housing Revenue Account and the necessary accounting adjustments between the General Fund and the Housing Revenue Account ; and
 - 2.4.2 The Cabinet Member for Housing to approve the appropriation of the retained affordable rented units to the Housing Revenue Account.

2. RECOMMENDATIONS...continued

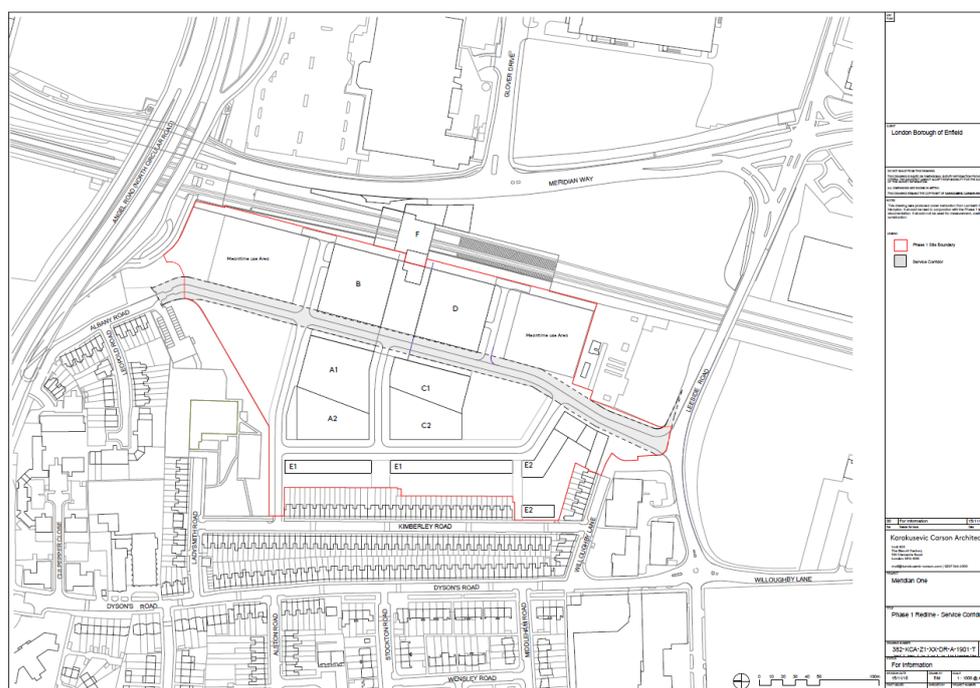
- 2.5 Approve the addition, subject to the agreement of the Preferred Developer, of an option in the Development Agreement for the Council to buy-back any remaining unsold residential units prior to the Developer marketing them overseas which they are only permitted to do 12 months after the completion of the homes.
- 2.6 In the event that the Developer discharges the Planning Condition but the Council fails to discharge any of its Conditions Precedent by the long stop date, and the Development Agreement is consequently terminated, approve the payment by the Council to the Developer a fair value for the intellectual property rights of any work conducted by the developer related to the reserved matters planning consent.
- 2.7 Approve the Council underwriting any potential Carbon Off-Setting costs under the terms of any planning consent for all future phases as detailed in this report until such time as Energetik connects to the low-carbon supply.
- 2.8 Delegate authority to the Executive Director of Place, in consultation with the Director of Law and Governance, to enter into a purchase agreement for the Pressure Reduction Station (PRS) land from National Grid on the terms set out in this report subject to a satisfactory Red Book valuation and business case.

3. BACKGROUND

3.1 Developer Procurement Process

3.1.1 GLA LDP2 Framework

3.1.2 On 25th July 2018 Cabinet approved the procurement of a developer to deliver Meridian One at Willoughby Lane via the GLA's LDP2 Framework which was launched in September 2018. Meridian One has been the first scheme to use the LDP2 Framework and this has continued to strengthen the relationship between LB Enfield and the GLA.



Meridian One location and boundary

3.1.3 The LDP2 Framework contains 29 panel members and requires those using the LDP2 Framework to follow a strict process set out by the GLA and use a specific set of documentation including a form of development agreement and headlease. Whilst some amendments to these documents are acceptable in order to reflect the specifics of each scheme, material or wholesale changes to the structure cannot be made as the LDP2 Framework has already been procured on the basis of these terms.

3.1.4 The Council's legal team and their external legal advisors, Trowers and Hamlins, reviewed the suite of documents and confirmed that they were suitable for this procurement with some project specific amendments.

3.2 Launch, EOI and Sifting Brief responses

- 3.2.1 A launch event was held at the offices of Lambert Smith Hampton on 27th September 2018. As required by the LDP2 Framework, all panel members were invited and around 100 people attended representing 24 potential bidders.
- 3.2.2 The Expression of Interest invitation was sent out, again to all bidders as required. A total of 17 panel members responded positively expressing interest in being part of the process.
- 3.2.3 Again, as required by the LDP2 Framework process, the Sifting Brief was sent out to all 17 panel members who expressed an interest. This was sent on 10th October 2018 with responses requested by 26th October. A Sifting Brief is backwards-looking, asking potential bidders to detail relevant experience and track record. It also requires financial information from the panel members to ensure they are sufficiently robust to undertake the project. This allows the Council's bid team to select a short list of panel members who will be taken forward to the mini-competition stage. The Sifting Brief for Meridian One stated that four bidders would be taken forward to the next stage.
- 3.2.4 The Council received 10 Sifting Brief responses and a panel of evaluators carried out a robust scoring exercise, supported by the Council's professional team including Lambert Smith Hampton, Ernst and Young and Trowers and Hamblins. The four highest scoring bidders were selected from the 10 responses to go forward to the next stage.

3.3 Selection of short list and mini-competition process

- 3.3.1 The four organisations invited to bid in the mini competition stage are referred to in this Part 1 report as:
- Bidder A
 - Bidder B
 - Bidder C
 - Bidder D
- 3.3.2 All bidders who responded to the Sifting Brief were informed of the results on 19th November and the full ITT package was sent out to the shortlisted bidders on 23rd November followed by four individual bidder briefing sessions held on 26th November at the offices of Lambert Smith Hampton.
- 3.3.3 The ITT package included:
- The ITT document itself
 - A legal pack including the development agreement, building lease, head lease and Energetik documents

- A Developer's Brief including technical information about the site, details of the planning consent and the Place Brief
- 3.3.4 Bidders were initially given 10 weeks to respond, including the two-week Christmas period. However, this was extended for a further two weeks such that bids were to be submitted on 15th February 2019.
- 3.3.5 During the bid period a series of bidder clarification meetings were offered to each bidder as follows:
- 2 x legal and financial clarification meetings, 1 in December and 1 in January
 - 2 x quality and design clarification meetings, 1 in December and 1 in January
- 3.3.6 All bidders attended all meetings except Bidder C who attended only 1 legal and financial meeting and 1 quality and design meeting.
- 3.3.7 The Council's team noted all clarification questions raised at these meetings and maintained a clarification schedule where written responses were provided and issued to bidders. Bidders were also invited to submit other written clarifications through the London Tenders Portal, and these were added to the schedule and the responses issued to bidders.
- 3.3.8 Bids were to be submitted via the London Tenders Portal by 5pm on Friday 15th February 2019. The portal closed at this time so that no late bids could be accepted.
- 3.3.9 All four bids were submitted before the deadline.

3.4 Scoring and Evaluation

- 3.4.1 Each bid was initially checked for compliance with the Pass/Fail Criteria which were:
- 1) Meeting the stated Scheme Requirements –
 - provision of a minimum of 300 residential homes in Phase 1a
 - provision of at least 25% affordable housing (by unit)
 - provision of retail, community and leisure units of 2,300 sqm within the scheme to be built by the Developer and passed back to the Council at nil cost with the benefit of a collateral warranty
 - completion by the Developer of site infrastructure works including roads, cycle-ways and footpaths, utility works above and below ground, surface water drainage works, public open space and children's play areas

- provision of and maintenance by the Developer of a tree nursery in accordance with the detailed specification available in the Place Brief
- provision by the Developer of temporary landscaping for Phase 1b during development of Phase 1a
- completion by the Developer of off-site highways works and the ecological corridor works as defined in the existing planning permission

2) Meeting the stated Minimum Design Requirements –

Residential	No social or affordable rented housing to be provided at a storey level no higher than the 8 th floor with no more than 50 units off an entrance
	All residential units are to comply with Lifetime Homes
	Unit sizes should meet as a minimum the space standards in the London Housing Design Guide
	10% of all new units must be wheelchair accessible
	No more than 10% of north facing units to be single aspect on each and every site which is subject to a detailed planning/reserve matter application
	A minimum of 80% of ground floor non-residential uses to have no less than 4.5m high ceiling heights (inclusive of servicing) on each and every site which is subject to a detailed planning/reserve matter application
	No ground floor residential homes to have floor to ceiling heights of less than 2.8m (excluding servicing)
	The majority of single aspect units to be 1 bed apartments and/or studios
	Affordable housing and private housing to be built to achieve a tenure blind approach
Design, place-making and construction detail	A minimum of 200 new trees inclusive of 60% semi- mature, excluding tree nursery
	All planning applications to be prepared in partnership with the Council
	Inclusion of a water feature (i.e. fountain, pond, water rill)
Environmental sustainability	All residential units are to achieve a minimum of Level 4 of the Code for Sustainable Homes (or equivalent to)
	Connects all buildings to the Lee Valley Heat Network, in compliance with the Project Technical Specification, as soon as the Network is operational
	Integrates cycle lanes into the development

3) Agreeing the Overseas Marketing Restriction –

- Overseas marketing will be restricted until 12 months following practical completion of each phase

- 3.4.2 Any submission which failed on any of these criteria would not be assessed. All four bids passed these criteria and were therefore put through to the formal evaluation process.
- 3.4.3 Bids were then evaluated in accordance with the evaluation criteria set out in the tender documents, i.e. quality (40%), affordable housing offer (15%), financial offer (40%) and legal (5%) (see below for more detail;).
- 3.4.4 Evaluators were chosen for each question based on their expertise in relation to the matter in question and were assisted by reports prepared by the Council's external advisers.
- 3.4.5 Evaluators scored bids individually and then individual scores for each question were moderated with oversight from officers from Procurement and Legal Services and advisers from Trowers & Hamlin LLP.
- 3.4.6 Bidders' scores from each section were then combined to give a total score for each bidder out of 100. Under the terms of the procurement process, only the Bidder with the highest score can be selected for award of the contract. If the Council does not want to select the highest scoring Bidder, then it must terminate the procurement process without selecting any Bidder.
- 3.4.7 The Council reserved the right to reject and exclude from further consideration any tender submission which scored less than:
- 6 out of 12 against any criterion within the Quality section
 - 7 out of 12 against any criterion within the 'Robustness of Business Plan and Financial Assumptions' areas; and/or
 - 5 out of 12 in the Legal section
- 3.4.8 This allowed the Council to reject a bid with a wholly unsuitable element which could not be accepted and removed the risk that such a bid might be strong in all other aspects therefore mathematically producing the highest score and forcing the Council to either accept it or terminate the entire procurement process.
- 3.4.9 The scoring weightings were as follows:

Quality Section – 40% of total score

Criteria	Weighting
Design	
Deliver the development to achieve ‘park life on your doorstep’ Place	15%
Deliver the development to achieve ‘your place to make and create’	15%
Deliver the development to achieve ‘mixing uses – animating streets’	15%
Marketing	
Acceptance of restriction on overseas marketing until twelve months after PC of each phase	Pass/Fail
Marketing strategy, indicating how it will target and maximise the chances of local (Enfield) residents to acquire units, optimising sales/lettings receipts and absorption rates. To cover both Market sale and any Build to	15%
Project Management and Programme	
Project Management Method statement clearly identifying the key roles and responsibilities of the project consultancy team and explaining how the project will be managed from commencement to completion of the development works.	5%
Programme Pre-construction, construction and expected sales/lettings programmes including key milestone and longstop dates, timescales, the critical path and preferred approach to phasing	10%
Risk Management	
Identifying the main risks in each of the key phases of the project. Detailing the risk owner and clearly describing the mitigating action.	5%
Social Value & Community	
Benefit to local residents, supporting the Council’s commitment to promote the economic, social and environmental well-being of the community. Confirming commitment to an Employment and Skills Strategy; explaining how social value and diversity will be promoted	10%
Estate Management	
<ul style="list-style-type: none"> • effective and consistent management service provided • levels of service charge • charging structure ensures fair proportion of service charge between occupiers 	10%
Total	100%

Affordable Housing Offer – 15% of total score

Criteria	Scoring Mechanism
<p>Affordable housing provision as part of Option 3 in relation to quantum and tenure split.</p> <p>The number of both shared ownership and affordable rent units should each be at least the number within the Option 1 bid.</p>	<p>Bidder Score =</p> <p>[Number of Bidder's Affordable or Social Rented Units] x 2</p> <p>+</p> <p>[Number of Bidder's Intermediate Units]</p> <p>The proposal which generates the highest score will gain the maximum points (100%). All other bids will be adjusted pro rata.</p> <p>For example, if the highest bidder's score is 616 then a bidder who scores 437 will score $100 \div 616 * 437 = 70.94\%$</p>

Financial Offer – 40% of total score

Criteria	Scoring Mechanism	Weighting
Financial Offer		
<p>Option 1 25% affordable housing by unit and in accordance with the terms of the planning permission</p> <p>Option 2 As above but the 75 Affordable Rented units are delivered back to the Council at nil cost</p> <p>Option 3 Minimum affordable housing of 35% and a maximum of 50%, each by unit. The number of shared ownership and of affordable rented units each to be at least the number included within Option 1</p> <p>Option 4 As above but the 75 Affordable Rented units required under the existing Section 106 agreement are delivered back to the Council at nil cost</p>	<p>The land premium offered for Options 1 and 3 only is evaluated as follows.</p> <p>1. For Option 1, the Bid which generates the highest net land premium will score the maximum points weighting. All other bids will be adjusted pro rata.</p> <p>Score = [Bidder's land premium ÷ Highest land premium] x 42.5%.</p> <p>2. For Option 3, the Bid which generates the highest net land premium will score the maximum points weighting. All other bids will be adjusted pro rata.</p> <p>Score = [Bidder's land premium ÷ Highest land premium] x 42.5%.</p> <p>Scores for Option 1 and Option 3 will be added together to produce the final score in this section for each Bidder</p>	85%
Robustness of Business Plan and Financial Assumptions		
<p>Provision of development appraisal to support the land premium offer for each Option, clearly stating all assumptions and inputs / outputs including supporting market and cost commentary and cost plan.</p> <p>Phase 1a block layout floor plans clearly defining the unit layouts and proposed affordable housing configuration.</p> <p>Proposals in connection with the identification of an RP (if appropriate) and how best value will be assured.</p>		5%
<p>Finance Proposal showing the proposed source of external finance and the split of internal and external finance.</p>		10%
Total		100%

Legal – 5% of total score

Criteria	Weighting
Acceptability of proposed amendments to legal documentation	
Marked-up Development Agreement identifying in full all amendments required. The assessment will consider: <ul style="list-style-type: none">• the extent to which the proposals depart from the draft legal documentation;• the extent to which the proposals transfer risk to the Council;• the extent to which the proposals are detrimental to the Council;• the extent to which the proposal balances the allocation of risk to the Council with the Council's potential reward;• whether the draft legal documentation is consistent with the technical, financial and commercial proposals.	100%

3.4.10 The scoring therefore rated each bidder according to the totality of their bid including a weighted score for their Option 1 and Option 3 land values. The scoring therefore selected a winning bidder but did not force a decision as to which of the four Options the Council should choose from that bidder.

3.4.11 Cabinet is therefore approving selection of a Preferred Developer with whom to work and this Preferred Developer can only be the winning bidder who scored the highest as described above. If Cabinet does not decide to select this bidder, then the only other option open to it is to terminate the procurement process with no Preferred Developer selected.

3.4.12 If Cabinet does decide to select the winning bidder as Preferred Developer, then a second decision must be made as to which Option offered by that bidder is to be progressed.

3.5 Results

3.5.1 The results of the evaluation were as follows, in final ranking order:

Bidder	Total (100%)
Bidder A	81.2%
Bidder B	63.6%
Bidder C	42.8%
Bidder D	36.3%

- 3.5.2 Recommendation for Selection of Preferred Developer
- 3.5.3 As shown above, Bidder A has comfortably scored the highest of all four bidders. Not only were their financial offers for all Options significantly higher than any other bidder, they also scored the highest in the Quality, Financial Robustness and Legal sections.
- 3.5.4 The full extent of their offer to the Council for each of the four options is detailed in the Part 2 report.
- 3.5.5 In all Options, the offer also includes:
- 835sqm of ground floor retail space (or workspace if the Council chooses to change the planning use class on completion) to shell and core specification
 - 750sqm of leisure space to shell and core specification
 - 600sqm of community space to shell and core specification
 - At least 200 trees in two tree nurseries on-site
 - Connection to Energetik
 - A mix of tenures including 213 build to rent
- 3.5.6 The Council also has the right to approve the reserved matters application before it can be submitted by the Developer to the Planning Authority.
- 3.5.7 The Council has the further right to approve the Developer's Registered Provider partner prior to it being appointed, such approval specifically taking into account its management KPIs and any requirements as to the terms of any disposal to it.
- 3.5.8 Bidder A made limited amendments to the legal documentation and scored highest in terms of the impact of the amendments made – i.e. their amendments transferred the least risk and were the least detrimental to the Council of all bidders.
- 3.5.9 Trowers & Hamlins LLP provided a summary of the main changes to the development documents proposed by Bidder A. Evaluators did not consider that the proposed amendments transferred significant risk to the Council.
- 3.5.10 Further discussion on some of these items may however be advantageous prior to signing the Development Agreement and the Council will be advised by both Trowers and Hamlins and the Council's in-house legal team to ensure the best terms possible are achieved and that any such discussions are in line with what is permissible under the LDP2 Framework.
- 3.5.11 It is therefore recommended that Cabinet approve the selection of Bidder A to be the Council's development partner to deliver Meridian One as described and detailed in their tender submission document.

3.6 Summary of Qualitative Offer

3.6.1 A summary of the Preferred Developer's offer in the Quality section is included at Appendix A.

3.7 Choice of Option

3.7.1 Bidder A has made four offers to the Council, all of which it has confirmed are open for acceptance.

3.7.2 As required, Option 1 is based on only the minimum planning requirements of at least 25% affordable housing by unit and 35% by habitable room. Bidder A states that the reason for the slightly higher number of affordable units in their offer is that this is the minimum required to meet all the unit mix requirements under the existing S106 agreement and also deliver 35% affordable habitable rooms.

3.7.3 As the Council wishes to maximise the delivery of affordable housing and the land price offer for this option is less than that offered for Option 3 it would not appear to be in the Council's interests to choose this option.

3.7.4 The remaining decision, therefore, is between Option 3 and Option 4 – i.e. both providing the higher 35% affordable units and 40.8% affordable habitable rooms.

3.7.5 Officers have worked with the Council's professional advisors and the Council's own Finance team to assess the pros and cons of choosing Option 4 such that 75 of the affordable rented units are transferred back to the Council on completion at nil cost and these can be found in the part 2 report.

3.7.6 Bidders were invited to submit an Option 3 comprising between 35% and 50% affordable housing by unit. Bidder A and Bidder C both submitted an Option 3 based on 35% while Bidder B and Bidder D each submitted an Option 3 based on 50%. Following the receipt of all bids, both Bidder A and Bidder C were asked to provide an indicative land price for 50% affordable housing by unit. Under the terms of the procurement process this offer could not be scored, however it was requested out of interest as the Council is interested in maximising the delivery of Affordable Housing where possible.

3.7.7 Bidder A responded to the request and the details can be found in the Part 2 report. Once appointed as Preferred Developer, it would be possible for the Council to discuss the options for accepting this offer with Bidder A.

3.7.8 An assessment of the affordability of the shared ownership units offered by Bidder A can be found in Appendix 1 of the Part 2 report.

3.8 Next Steps

- 3.8.1 Completion of Development Agreement with Preferred Developer
- 3.8.2 If Cabinet approve the selection of Bidder A as Preferred Developer then the next step is to sign the Development Agreement and all ancillary documents and for Bidder A to commence work on the reserved matters application.
- 3.8.3 Bidder A has submitted marked up legal documents for which they have Board approval to enter into, without any further negotiation, subject to sign off of the issues identified in the following paragraphs.
- 3.8.4 The development agreement will need to govern the agreed level of affordable housing, the council retaining affordable rented homes and the arrangements for Bidder A pursuing an alternative planning application to increase the number of homes on site.

3.9 Other Steps for the Council

- 3.9.1 As well as completing the Development Agreement, the Council has a number of other decisions which need to be taken over the course of the next few months as follows:
- How to spend the Community Chest contribution received from the developer
 - Its asset management and lettings strategy for the ground floor non-residential units which are being provided back to the Council as detailed above
 - Its strategy for best use of the Community Centre and leisure facilities which are being provided back to the Council as detailed above. It is intended that this will include a health centre
 - Various approvals are required from the Council in connection with the Development Agreement, such as approval of the reserved matters application

- 3.9.2 Officers will be working with the Council's professional team on these actions and, where appropriate, will bring recommendations back to Members.

3.10 Conditions Precedent

- 3.10.1 The Development Agreement includes four Conditions Precedent which must be discharged prior to the agreement going unconditional.
- 3.10.2 One of these, the Planning Condition, is the developer's responsibility and requires it to gain full reserved matters approval for the whole scheme in line with the existing outline consent.

3.10.3 The three other Conditions are the Council's responsibility as follows.

3.11 Station Condition

3.11.1 There are three elements to this Condition:

- the entering into a deed of easement to permit access to the public across the railway line at the Meridian Water station in order to satisfy condition 81 of the Outline Permission;
- the provision of the train service as set out in Condition 81 of the Outline Permission;
- the completion of the land transfers between LB Enfield and Network Rail

3.12 Remediation Works Condition

3.12.1 There are four elements to this condition:

- completion of the remediation of the Willoughby Lane site to the specification attached to the Development Agreement (note: this is intended to be the same as it included within the tender for the remediation contractor);
- a Remediation Warranty is provided to the Developer;
- the entering into of a deed of release to release the easements and restrictive covenants related to the IP gas Main currently running through the site;
- the entering into a deed of easement to grant the necessary rights and easements for the new gas mains

3.12.2 Bidder A has been provided with the programme and phasing details for the work required to discharge this condition and have indicated in their programme that they do not currently need to start work prior to the full completion of the works in order to meet their milestones and programme commitments.

3.12.3 However, there is a risk that discharge of the Remediation Condition may be delayed due to reliance on third parties. In order to mitigate this risk, the Council's construction team have identified significant areas of the Meridian One site which can be made available to the Developer at any time after the end of 2019 independently of whether or not the PRS and IP gas Main have been relocated - including the area where Bidder A intends to commence construction, being Block E1.

3.12.4 The Council will therefore work with Bidder A to ensure that their start on-site can take place as currently programmed even in the event that discharge of the Remediation Condition is delayed.

3.13 Vacant Possession Condition

3.13.1 This condition simply requires that the Council give the Developer vacant possession of the site free of occupation or any other property interest enjoyed by any third party other than utility providers.

3.13.2 This condition is unlikely to cause a problem as the site is already vacant apart from the remediation contractors and as such this condition will be monitored along with the Remediation Works Condition as detailed above.

3.14 Planning Condition – Developer Obligation

3.14.1 The Planning Condition requires the Developer to secure a satisfactory, reserved matters planning consent for the whole Meridian One scheme in line with the existing outline consent.

3.14.2 It is recommended that Cabinet approve that in the event the Developer discharges the Planning Condition but the Council fails to discharge any of its Conditions (detailed above) by the long stop date, and the Development Agreement is therefore terminated, then the Council pays to the Developer a fair value for the intellectual property rights of any work related to the reserved matters planning consent. This is not an indemnity; however, it is recognised that such fair value should be a good approximation to the reasonable costs incurred by the Developer in securing such consent.

3.14.3 In addition to pursuing a reserve matters planning consent for the whole of Phase 1 the Council also expects the developer to prepare a full planning application for Phase 1b of the site to increase the density on the site above the existing consent for 725 homes.

3.15 Energetik

3.15.1 The Council requires that the developer for Meridian One and the developers for all other phases of Meridian Water use the Energetik network to provide heat to all residential and commercial units on the scheme. The Energetik standard legal pack was included within the Meridian One tender package and has been agreed to by Bidder A.

3.15.2 There are three risks involved in this strategy for the Council as detailed in the Part 2 report.

3.16 Other Matters

3.16.1 Council buy-back of units prior to marketing overseas

3.16.2 The Development Agreement places a restriction on the Developer marketing any units for sale outside of the UK until at least 12 months after practical completion of the scheme.

3.16.3 Bidder A has not referred to any overseas marketing in their tender response, even as mitigation of a market slowdown, and therefore it is not certain that they would market outside of the UK at all. However, should they choose to do so, they would have the ability 12 months after practical completion of the scheme and the Council would not have any recourse to prevent it.

3.16.4 In order to allow the Council some control over whether units are marketed to overseas buyers it is recommended that Cabinet approve the inclusion of an option for the Council to buy any unsold units prior to the Developer implementing any such marketing.

3.17 Private Rented Homes

3.17.1 Bidder A proposes the inclusion of a number of private rented homes within the development. Council officers will discuss with Bidder A how these homes will be marketed with a view to seeking agreement for priority to be given to people already working or living in the Borough.

3.18 Phase 1B Planning Application

3.18.1 Whilst Bidder A is required to obtain a Reserve Matter Application in accordance with the existing Outline Planning Consent for 300 homes there is the opportunity for a new planning application to be submitted in relation to the balance of the land. A new planning application would provide an opportunity to increase the number of homes on the site.

3.19 Post-Completion Works

3.19.1 Regardless of how carefully any Client team prepares for a large and complex scheme such as Meridian One, particularly when it is breaking new ground and striving for outcomes as ambitious as Meridian Water's, it is inevitable that certain requirements will only become evident after practical completion.

3.19.2 Examples may include additional play facilities, taking advantage of technological advances etc.

3.19.3 It is therefore recommended that Cabinet approve the use of an amount of the funds from the land value secured from Bidder A for such post-completion works as detailed in the Part 2 report. This money will not however be available for expenditure on items that are the responsibility of the developer.

3.20 Category A fit-out of Council non-residential assets

3.20.1 The Council will receive the following Council Assets back from the developer on practical completion of the scheme in addition to the cash payments as detailed above in Section 3.1.6 above:

- 835sqm of ground floor retail space (or workspace if the Council chooses to change the planning use class on completion)
- 750sqm of leisure space
- 600sqm of community space

3.20.2 Within the Developer's land value, these units are being completed to a shell and core finish only. Before they can be let to occupiers, they will need to be fitted out to at least a Category A fit-out specification – this will include items such as finished walls and ceilings, flooring, toilets, basic mechanical and electrical services and fire/smoke detection.

3.20.3 There is a great deal of work for the Council to do in order to provide a detailed specification for this specification and it will depend to a very large degree on the type and nature of the occupiers it intends to target. The target market for the ground floor uses is intended to be a mix of independent retailers and makers/creators. However, until the scheme is much closer to completion it will be difficult to have any certainty about exactly who the occupiers are.

3.20.4 The Development Agreement therefore provides for the Council to set a specification at a later date and the Developer to cost it and, once the costs have been agreed, carry out the works on the Council's behalf. The costs would be netted off the remaining land value left to pay on completion.

3.20.5 As there will be a mix of uses, and therefore a mix of fit-out costs, it is recommended that Cabinet approve the use of an agreed amount of the funds from the land value secured from Bidder A for such fit-out works as detailed in the part 2 report.

3.21 Ground floor B1 Uses

3.21.1 The existing planning consent for Meridian One allows a range of planning uses in the A category, i.e. retail.

3.21.2 Since the planning consent was granted there has been a continuation of the challenges faced by retailers in today's market and it is recognised that it will become increasingly difficult for a new and untested location such as Meridian One to secure retail lettings for some years until it has become more established.

3.21.3 The Vision Booklet for Meridian Water has also been finalised and published since the planning consent was granted and firmly establishes three place-making principles for the scheme, the second

of which is 'Your Place to Make and Create'. Work has therefore continued on the potential to use much of the ground floor space across the whole of Meridian Water as workshops and studios for makers and creators.

3.21.4 As such, it is intended that once the Meridian One scheme has been completed, a change of use is secured for the ground floor units to introduce the flexibility for inclusion of B1 uses.

3.22 Option for Council to buy PRS units

3.22.1 The Development Agreement allows the Council to opt to purchase a core within a building for use as private rental units to be rent at market value.

3.22.2 Such a core can only be selected by the Council if it does not contain any affordable units.

3.22.3 The Council must inform the developer of such intent prior to the Development Agreement going unconditional and the price and terms of the purchase are to be agreed between the parties. Any decision to proceed will be authorised via a Portfolio Decision Report.

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 End current procurement and re-procure

4.1.1 The bid from Bidder A is acceptable and is on terms which are relatively unchanged from the Council's tender documents.

4.1.2 A new procurement would result in a significant delay to when new homes can be completed and occupied by approximately one year.

4.1.3 A re-procurement would also reduce the confidence the market has in Meridian Water and cast doubt on the Council's commitment to awarding a contract after any future procurement. The response to another procurement is therefore likely to be very limited and weak and would impact the response to other future phase procurements.

4.1.4 For further details please see the Part 2 report.

4.2 End current procurement and Council self-deliver

4.2.1 The bid from Bidder A is acceptable and is on terms which are relatively unchanged from the Council's tender documents. Bidder A is also offering a fixed land value with all construction and market risk being borne by them and not the Council.

4.2.2 Bidder A are also an experienced and well-respected developer who have a track record of successfully delivering viable schemes.

- 4.2.3 Ending the procurement and self-delivering could reduce the confidence the market has in Meridian Water and cast doubt on the Council's commitment to awarding any future contracts on other phases.
- 4.2.4 Self-delivering would also delay the delivery of first homes by an unquantifiable length of time as the Council has not yet secured the knowledge, resource or skills to embark on such an endeavour.
- 4.2.5 Self-delivery also exposes the Council to all construction and market risk at a time when such risks are very high due to the current political and economic uncertainty around Brexit.
- 4.2.6 For further details please see the Part 2 report.

4.3 End current procurement and sell land

- 4.3.1 The Council would lose all control over what was built on the land other than through their role as Local Planning Authority. The Council would also lose the opportunity to secure income-producing Council Assets.
- 4.3.2 With the ELAAP not yet being adopted, the LPA's ability to influence any proposed development, in particular commercial or industrial development, on this site would be limited.
- 4.3.3 For further details please see the Part 2 report.

5 REASONS FOR RECOMMENDATIONS

- 5.1 Recommendation to enter into Development Agreement with Bidder A on the terms offered:
- Acceptable land value offered
 - Timely delivery of homes
 - Quality design of housing and social infrastructure in line with Meridian Water vision
 - Setting benchmark for continued development of Meridian Water, maintaining market confidence in the Council and the scheme

6 COMMENTS FROM OTHER DEPARTMENTS

6.1 Financial Implications

- 6.1.1 See Part 2 report.
- 6.1.2 Financial due diligence was performed as part of the procurement process on all bidders. Ernest and Young have also worked with the Project and Finance team to provide expert advice during the

procurement process. The preferred developer has gone through a rigorous process to ensure their economic and financial standing is sound, which is based on information submitted and what is currently available in the public domain. Based on this information, there are no existing concerns with their financial health, and based on the information available, there are no concerns regarding their financial capacity to deliver the project.

- 6.1.3 Recommendation 2.2 and 2.3 refer to the Council retaining the affordable rented units. Based on initial modelling, using the generic assumption used for the Council's other Estate renewal schemes, owning the units in the HRA is the preferred option. However, prior to a final decision, further work will be undertaken by the Council to confirm this is the best ownership option for the 75 affordable units. This will include further investigation of the option of transferring the homes to Housing Gateway Limited (HGL).
- 6.1.4 Alternatives to the HRA holding the homes are for the developer to retain them and partner with a Registered provider, this would result in the Council receiving a higher land price.
- 6.1.5 Any deal agreed with the developer will have stamp duty land tax (SDLT) and VAT implications. The tax implications have the potential to be significant and onerous for both the developer and the Council, if the agreement is not structured in a tax efficient way. The Council is currently taking tax advice from Ernest and Young to understand all the implications to ensure the most tax efficient option is adopted
- 6.1.6 If the Council decides not to retain the 75 affordable units within the HRA or in a manner which is eligible for utilising the £7.5m grant, the funding will need to be reallocated to another qualifying affordable housing scheme that will start on site by 2021. The Council has an agreed allocation of £7.5m for this scheme with the GLA, and there are currently no immediate alternatives schemes the grant can be used against.
- 6.1.7 This development will bring 725 new properties to the borough, which will provide additional high-quality housing for residents, generate increased revenues to the Council through council tax, and allow for temporary accommodation savings to be made as a result of the increased supply of affordable rented units.
- 6.1.8 The most expensive form of temporary accommodation is Temporary Nightly Paid Accommodation (TNPA) or Bed and Breakfast (B&B). There are currently 2000 households placed under these types of accommodation. Were an additional 75 units to become available to these households the council would reduce its TNPA costs.
- 6.1.9 Having 725 new properties in the borough attracting an average of £1.6k (based on 2019/20 rates) in council tax, would generate circa

£1.16m of additional revenue to the Council each year. The Council would retain 80% of this amounting to £928k, with the remaining amount going to the GLA. This does not account for any exemptions or discounts that may be attached to any of the properties.

6.1.10 The development includes approximately 25,000 square foot of commercial and leisure space, which could generate circa £195k a year through business rates. This does not include any exemptions or discounts any occupiers may be entitled to.

6.1.11 The additional properties and households will also lead to extra demand on Council delivered services, resulting in increased costs. Currently there is not enough information to estimate the cost of providing any additional services that may be required.

Additional financial implications are provided in part 2 of this report.

6.2 Legal Implications

Dated 21st March 2019

MD

6.2.1 Officers have been advised throughout the procurement process outlined in this report by officers from the Council's Legal Services department and by Trowers & Hamblins LLP.

6.2.2. 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.

6.2.3 In conducting the procurement of a developer for Meridian One, the Council must comply with all requirements of its Constitution, Contract Procedure Rules ("CPRs") and the Public Contracts Regulations 2015 ("Regulations"), both of which permit the call-off from an existing framework if the framework terms permit. The resulting call-off contract must be based on the framework terms and the Council must ensure that it follows the rules of the framework. Officers have confirmed that they are satisfied that the LDP2 Framework terms have been complied with.

6.2.4 Throughout the engagement of the preferred developer, the Council must comply with its obligations of obtaining best value, under the Local Government Act 1999.

6.2.5 Any property transactions entered into by the Council as a consequence of the subject matter of this report must comply with the Council's Property Procedure Rules.

6.2.6 All legal agreements arising from the matters described in this report must be approved in advance of contract commencement by Legal Services on behalf of the Director of Law and Governance.

6.2.7 See Part 2 Report

6.3 Property Implications

6.3.1 The procurement process will result in the Council entering into a Conditional Development Agreement which imposes obligations on the Council as detailed in this report. When all conditions have been satisfied a 21-year Building Lease will be granted to enable development of the site followed by a long leasehold interest granted on completion of the scheme. The Council will retain the freehold interest.

The land premium is paid in three tranches at commencement of construction, 12 months after commencement and the earliest of 36 months after commencement of on practical completion.

The premium has to be paid in full before grant of the long lease and is therefore highly secure.

6.3.2 The bidders made their land offers in competition and the highest offer is higher than the Council's estimated land receipts.

For these reasons Officers are satisfied that the Council have met their statutory obligation to secure best consideration within the terms of the Local Government Act 1972 and have followed the Property Procedure Rules.

6.3.3 By the terms of the Development Agreement the selected Developer will hand back to the Council the retail, leisure and community accommodation and this will need to be properly managed through the Council's own property resources (within the Strategic Property Services Team) and procedures. The addition of these assets to the Council's portfolio will require additional staff resource to manage the assets and budget to pay for their maintenance including future Corporate Landlord compliance, as well as other holding costs such as business rates, insurance, utilities, security etc. which will need to be funded from revenue. It is expected that income received from these assets will be top-sliced to fund the revenue costs of their regular management and maintenance, via a service charge, and that a sinking-fund will need to be created to pay for less frequently required renovation/upgrading works over a longer time period (e.g. 10yrs post construction). However, during implementation and any initial rent-free periods, the cost of this commercial asset management requirement will need to be directly funded by the Council.

- 6.3.4 The Meridian Water Team will need to collaborate closely with Strategic Property Services team and the successful bidder to establish a comprehensive approach to estate management within the development scheme, that complies with the Council's Corporate Landlord policy. The lease terms and structure, types of uses, exact locations and fit-out quality of the commercial units to be handed back to the Council must be agreed by Strategic Property Services. There will need to be an appropriate construction budget allowance granted from the Meridian Water Programme budget to cover necessary fit-out of the assets that are being returned to LBE as "shell and core" only, to ensure they are in a lettable state and attractive to the market.
- 6.3.5 An appropriate asset acceptance handover process will need to be agreed between the developer and the Council as landlord, to ensure that the commercial assets are fit-for-purpose and in a lettable state prior to their transfer.
- 6.3.6 The Estate Management element of the contract with the selected bidder will require input from Strategic Property Services to ensure a comprehensive and sustainable approach is put in place to cover the initial and long-term management and maintenance of the estate e.g. mixed-use blocks and public realm. Governance structures (e.g. relationships between the developer, the Council, an estate management company, residential tenants, commercial tenants, facilities management), roles/responsibilities, budgetary (e.g. service charges) and legislative issues will all need to be made clear and agreed prior to handover of the assets from the developer to the Council (the Landlord).
- 6.3.7 The financial asset value of this accommodation is dealt with separately in this report.
- 6.3.8 As part of the transaction the Council are receiving a payment to fund the management costs of Ladysmith Park and this will represent a saving on the FM budget for that space.
- 6.3.9 The acquisition of the existing gas Pressure Reducing Station site and the re-provision of a replacement facility on land in Council ownership is considered under a separate report, for which specific property implications have been provided.
- 6.3.10 The power of acquisition of land is provided by the Local Government Act 1972 and the land transaction is necessary to enable the Council to meet the Remediation Condition in the Development Agreement. The site is then expected to be included in the development proposals for Phase 4 of the wider Meridian Water scheme and future disposal will be by way of long lease/s at best consideration in accordance with section 123 of the Act. The Council intend to retain ownership of the freehold interest in all land within the scheme.

6.3.11 Other than as mentioned in this section, the work included in the scope of this report does not appear, at this stage, to have any direct property implications for the Councils other property assets. However, any indirect implications or unintended consequences will need to be reported at a later stage.

6.3.12 The Council's core strategy is to promote housing development at Meridian Water and at Willoughby Lane in particular and land acquisition and this funding of work in progress in the short term is considered to support the strategy of housing development at the earliest time.

6.4 Procurement Implications

6.4.1 The Councils' Contract Procedure Rules (CPRs) permit the use of a framework call-off as a means of tendering from an existing framework if the framework terms permit (CPR 4.0). The resulting call-off contract must be based on the framework terms and the Council must ensure that it follows the rules set out by the framework.

6.4.2 The procurement was a call-off from the GLA London Development Panel Framework (LDP2 MD2068). The project was mini-tendered in accordance with the guidelines provided by the GLA, who operate the framework, this comprised the issue of an Expression of Interest followed by a Sifting Brief to shortlist the potential bidders with the tender being issued to the shortlisted bidders. Both the Sifting Brief and the tender were issued and returned through the London Tenders Portal.

6.4.3 The evaluations of all returns were carried out in a fair and transparent manner. The Council has complied with the LDP2 Framework terms in this procurement. The P&C Hub were involved in the procurement and the process was carried out in a fair and transparent manner.

7 KEY RISKS

- **Risk:** Extended period of negotiation entered into by Bidder A before signing development agreement
- **Effect:** Delay in commencing on-site, potential for terms to become less favourable to the Council
- **Mitigation:** Bidder A have submitted a binding offer in their tender response with Board approval to enter into the documents with the Council in the form submitted. They have identified only two areas which require further agreement those being their review of the remediation contractor's appointment and agreement on tax structuring, ie VAT and SDLT. For further details please see the Part 2 report.

- **Risk:** Market softens leading to Bidder A attempting to renegotiate terms
 - **Effect:** Potential delay or reduction in land value
 - **Mitigation:** Development Agreement allows Phase 1B to be delayed in the event that there is a UK recession, otherwise the Council has the contractual right to enforce the delivery of the programme and land offer
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- **Risk:** Bidder A go insolvent prior to completion of build or are unable to fund to completion
 - **Effect:** Delay to completion whilst Council secures step-in and appoints a new developer to take over the build
 - **Mitigation:** All bidders have been subjected to robust financial evaluations by Ernst and Young and William Lickorish. The Development Agreement requires the developer to continually monitor its financial position and advise the Council of any material changes. The Council has step-in rights to the Development Agreement in the event of insolvency or default. The parent company of Bidder A are providing a parent company guarantee and is a substantial organisation. For further details please see the Part 2 report.
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- **Risk:** Market Slowdown clause triggered
 - **Effect:** Delay in delivering units and/or reduction in land value
 - **Mitigation:** Phase 1A must contain at least 300 units and is not subject to any market slowdown clause. Only Phase 1B can be subject to a Market Slowdown scenario. For further details please see the Part 2 report.

For further risks, please see Part 2 report.

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

8.1 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. Meridian One will deliver the first housing within Meridian Water and will play an important role in connecting the new neighbourhood with the existing community. The site is adjacent to Angel Edmonton and will provide a pleasant connection between the neighbourhoods and new Meridian Water Station.

8.2 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. Meridian One will provide new community and leisure space and facilities to enable greater community cohesion. The facilities will include a health and wellbeing centre to promote healthy lifestyles and provide a space for community groups to come together.

8.3 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. Meridian One will provide commercial ground floor space including retail (and workspace if the Council chooses to change planning use after completion) to create a new local destination. The development will be aligned with the three pillars of placemaking for Meridian Water, including 'Mixing uses; animating streets. This will ensure that the area is a lively place to complement and strengthen the local economy. The proximity to the station and attractive public realm will encourage people to visit and enjoy the area.

9 EQUALITIES IMPACT IMPLICATIONS

- Local authorities have a responsibility to meet the Public Sector Duty of the Equality Act 2010. The Act gives people the right not to be treated less favourably because of any of the protected characteristics. We need to consider the needs of these diverse groups when designing and changing services or budgets so that our decisions do not unduly or disproportionately affect access by some groups more than others.
- 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.
- Corporate advice has been sought regarding equalities and whilst there are no Equalities implications in agreeing the recommendations outlined in this 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 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

- There are no direct public health implications from the selection of a developer for Meridian Water. However, the Meridian Water programme is likely to positively impact on population health in a number of ways; it will provide housing (including affordable housing) which is fundamental to health and it will be a sustainable development and seek to minimise and mitigate its effects upon the environment thereby reducing impact upon climate change, itself described as the greatest threat to public health in the 21st century.
- Further, Meridian Water is being designed so that it will integrate healthy lifestyles into everyday life; active transport will help to increase and maintain levels of physical activity (associated with reducing the risk of all long-term conditions by 20-40%), retail outlets will be encouraged to sell healthy food (associated with a reduced risk of obesity and several cancer) and reduced smoking (the greatest cause of premature death in the UK, responsible for more deaths than the next 5 causes combined).