

MUNICIPAL YEAR 2019/2020 REPORT NO. 112

MEETING TITLE AND DATE:

Cabinet 16th October 2019

REPORT OF:

Executive Director
Place

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Agenda – Part: 1

Item: 11

Subject: Meridian Water – Meridian One Developer Procurement

Wards: Upper Edmonton

Key Decision No: 4864

Cabinet Member consulted: Cllr Nesil Caliskan

1. EXECUTIVE SUMMARY

- 1.1 On 24th April 2019, Cabinet approved the appointment of Galliford Try Partnerships (GTP) as developer for Meridian One (KD 4864)
- 1.2 Authority was delegated to the Portfolio holder to confirm the level of affordable housing and Council Homes in the deal
- 1.3 Since that date, negotiations have taken place between the Council and GTP and a deal agreed as follows :
 - 1.3.1 The scheme will be delivered with 50% affordable housing, of which 50% will be affordable rent
 - 1.3.2 The Council will purchase the affordable rented units from GTP at a price agreed within the Development Agreement (the units may subsequently be appropriated to the HRA at their certified value after practical completion, this will be the subject of a separate cabinet report at the time)
 - 1.3.3 A warranty for the historic soil and ground water remediation works will be secured by the Council from Cognition, including removal and mapping of underground obstructions. GTP will accept this warranty and complete the remaining remediation works on-site therefore removing the condition precedent for the Council to do so
 - 1.3.4 GTP will also take on responsibility for managing Cadent relocating the PRS and IP Main and releasing the IP Main easement therefore removing the condition precedent for the Council to do so
 - 1.3.5 GTP will complete the fit-out of the non-residential units to the Council's 'shell and core plus' specification therefore removing the requirement for the Council to pay for the works themselves after practical completion

2. EXECUTIVE SUMMARY...continued

- 1.3.6 The Council has issued a Design Charter for the potential re-design of Phase 1B which is included within the Development Agreement. GTP have agreed with the principles of the charter subject to final agreement on the detail prior to exchange of the DA
- 1.3.7 GTP have agreed to target two thirds of the net ground floor area being non-residential uses (excluding maisonettes) gifted to the Council at nil cost

2. RECOMMENDATIONS

It is recommended that Cabinet :

- 2.1 Authorises the deal with GTP as set out in this report subject to the completion of external Red Book Valuations, undertaken by the two appointed Registered Valuers at LSH and BNP Paribas, confirming the status of the disposal in relation to s.123 of the Local Government Act 1972 'best consideration' and 'market value' and approved by the Cabinet Member for Finance & Procurement
- 2.2 Authorises the expenditure of £200,000 towards community benefits as detailed in this report
- 2.3 Delegates agreement of the remediation costs, the remediation warranty and the costs for GTP to manage the relocation of the PRS to the Director of Meridian Water
- 2.4 Delegates agreement of the final drafting of the Design Charter to the Director of Meridian Water
- 2.5 Delegates agreement of the cost of completing the non-residential units to the Council's 'shell and core plus' specification to the Director of Meridian Water
- 2.6 Delegates authority to the Executive Director of Place in consultation with the Director of Resources and the Director of Law and Governance to agree the terms of the Development Agreement and ancillary documents with GTP after receipt of a procurement risk report from Trowers and Hamlin which the Director of Law and Governance is satisfied presents an acceptable procurement risk to the Council
- 2.7 Delegates authority to Legal Services on behalf of the Director of Law and Governance to enter into the Development Agreement and any ancillary documents.
- 2.8 Authorise the addition of £1.1m expenditure added to the Medium Term Financial Plan, to service the outstanding debt attached to Meridian One.

3.BACKGROUND

3.1 On 24th April 2019, Cabinet approved the appointment of GTP as developer for Meridian One (HD 4864). Such approval was subject to the following authorisations :

3.1.1 Programme Director – Meridian Water (in consultation with the Director - Law and Governance and the Director - Finance) authorised to enter in to a Development Agreement and ancillary documents for Meridian One

3.1.2 Prior to signing the Development Agreement, the Executive Director of Place (in consultation with the Director - Law and Governance and the Director - Finance) authorised to enter into discussions with GTP to secure up to 50% affordable housing with the Council retaining at least 75 affordable rented units on the site

3.1.3 At the conclusion of the discussions referred to above, authority was 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

3.1.4 Subject to the above negotiations being concluded and valuation advice being finalised authority was delegated to :

3.1.4.1 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

3.1.4.2 The Cabinet Member for Housing to approve the appropriation of the retained affordable rented units to the Housing Revenue Account.

3.2 Negotiations have subsequently taken place with GTP and a deal agreed as follows :

3.2.1 Affordable Housing and Land Value

The scheme will be delivered with 50% affordable housing, of which 50% will be affordable rent.

This tenure split has been agreed following a steer by Cabinet and is supported by both the Draft London Plan and Enfield's own Local Plan aspirations.

The ELAAP and the Local Plan seek affordable housing to be split 70% affordable rent and 30% intermediate. However, as the outline planning consent requires only 25% affordable housing of which 40% is affordable rent (75 units in total) the number of affordable rented units delivered within the scheme has been increased as far as possible whilst still remaining viable.

3.2.2 Council Purchase of Affordable Rented Units

The Council will purchase all the affordable rented units from GTP at a price agreed within the Development Agreement and detailed in the Part 2.

If GTP deliver the scheme under the terms of the current planning consent, this would mean that the Council ultimately purchases 182 affordable units. If GTP apply for a revised planning consent for Phase 1b under the terms of the DA then this number would increase. Current estimates of the total number of units which could be delivered are around 910 with 230 offered to the Council as affordable rent. Unit numbers will not be determined until after the DA has been signed and the detailed planning consent secured by GTP, however the Council has approval rights as land owner on all planning applications submitted by GTP.

3.2.3 Remediation and Enabling Works

Remediation

A warranty for the historic soil and ground water remediation works, including removal of underground obstructions, is being secured from Cognition. GTP will accept this warranty and complete the remaining remediation works on-site therefore removing the condition precedent for the Council to do so. The costs for GTP to carry out this work will be off-set from the land value.

The Council's cost consultants, Stace, have reviewed the GTP cost for completing the remediation works and confirmed that it is in line with the market and therefore represents value for money.

The Council had already budgeted for costs to be spent on completion of the remediation works and this amount was included in the budget approved by Council in January 2019. These costs no longer need to be expended and therefore the Council will be making savings to off-set against the GTP costs.

In addition to this, the risk to the Council has significantly reduced as GTP have now taken full responsibility for the works and the condition precedent for the Council to complete the works within the development agreement has now been removed thus reducing conflict and potential claims on the Council.

Relocation of PRS

GTP will also take on responsibility for managing Cadent relocating the gas Pressure Reducing Station (PRS) and Intermediate Pressure Main (IP Main) and releasing the IP Main easement, therefore removing the condition precedent for the Council to do so.

GTP have advised a cost to carry out this role and these costs will be off-set from the land value. In addition, the Council will still pay Cadent directly for the cost of the relocation works and the long stop dates within the agreed programme in the development agreement are subject to extension in the event that the works are delayed by Cadent through no fault of GTP.

The Council had previously budgeted for costs of professional fees to manage this relocation and these costs will no longer be required. In addition, the Council gains substantial benefits through removal of the condition precedent for it to complete these works in the development agreement and through the ability for the developer to plan its programme around the works.

3.2.4 Phase 1B and the Design Charter

The Council has issued a Design Charter for the potential re-design of Phase 1B which is included within the Development Agreement. GTP have agreed to the charter in principle, subject to agreement of final details prior to signing the DA. GTP have also confirmed that any redesign will meet the terms of the agreed charter.

GTP have presented the Council with an indicative concept plan for how 912 units might fit on the site which has been reviewed by the Council's in-house design team

The building blocks of the new 912-unit proposal follow the basic principles of the previous consented scheme. Density is raised in the form of height and mass in the plots facing the railway line ie. Blocks B & D. At Block B, the tower at the NW corner reaches 24 storeys while the SE tower is 20 storeys, functioning as a place marker for the new Meridian Water station and the main square. The maximum height for Block D is 13 storeys, creating a sense of enclosure to the square without compromising the natural light into it. Blocks A & C remain fairly similar to the consented scheme of the 725 homes.

The Council's team are currently developing different options for the community space, within the current planning use, and are keen to explore a health offer. The existing community will be consulted during this process to make sure that the final space will reflect their needs.

3.2.5 Non-Residential Units – Fit-Out

The tender documents initially required GTP to deliver the non-residential units to the Council at nil cost on a shell and core specification. The Council was to provide GTP with a detailed fit-out specification later in the programme and pay GTP separately for the work required out of future approved budgets.

Further work on the use and marketability of these units has resulted in the decision to deliver these units to the market on a 'shell and core plus' basis rather than fully fitted out. The specification has now been developed and GTP will be in a position to advise the cost for the additional works prior to signing the DA. The Council's professional cost consultants, Stace, have estimated the cost for the works and will work with GTP to ensure that the final price agreed with them offers the Council value for money based on this estimate.

The sum agreed with GTP for upgrading the specification of the non-residential units to the Council's 'shell and core plus' specification will be netted off the land value.

3.2.6 Non-Residential Uses – Quantum

GTP have reviewed the existing outline planning consent and confirmed that the average quantum of non-residential units across the four blocks A – D exceeds two thirds of the net internal area (excluding area required for ground floor family homes/maisonettes). They have committed to maintain this level in any revised planning application.

3.3 The goal of Meridian Water is to make local people the primary beneficiaries of the scheme. The top priorities of local people have been identified to the Council at various community meetings as being:

- Anti-social behaviour
- Fly-tipping/rubbish

It is therefore recommended to spend £200,000 towards alleviating these problems in Upper Edmonton as follows :

- £100K for street cleansing
- £100K for community safety

This sum can be contained within the contingency allowance within the current approved budget if necessary, however it is also specifically included as a line item in the budget as set out in the Meridian Water Financial Review report also being presented at this Cabinet meeting.

Furthermore, the development agreement requires the developer to :

- Follow the Local Lettings Plan to prioritise Edmonton residents for the new affordable homes
- Follow the Intermediate Housing policy, to prioritise Enfield residents for shared ownership, intermediate rent and London Living Rent homes

3.4 The difference between GTP’s original bid offer and the deal now agreed with them can be seen in the following table :

Comparison of GTP bid option and Council negotiated deal	GTP bid option (April 2019)	Council’s Negotiated deal
No. of homes	725	910 (estimated)
No. of Council Homes (Affordable Rent)	75	230 (25%)
No. of RP Affordable Rent Homes	0	0
No. of RP Intermediate Homes	179	226 (25%)
No. of Build to Rent Homes	213	196
No. of Private Sale Homes	258	258
% Affordable overall	35%	50%

For further comparison tables, please the Part 2 report.

3.5 Best Consideration

3.5.1 Under S123 of the Local Government Act 1972, the Council is required to achieve best consideration for its assets.

Lambert Smith Hampton formally advised in their report dated 4th October 2019 that their red book valuation (compiled in accordance with the requirements of s123 and following the advice set out in the Technical Appendix to Circular 06/03) will demonstrate that this transaction is compliant with s123 LGA 1972.

A second red book valuation has been commissioned by the Council from BNP Paribas. This second valuation will provide support for the conclusions within the LSH valuation and ensure that independence and transparency is clearly seen to be achieved. This red book valuation will be completed prior to signing the DA, however BNP Paribas have already confirmed that they agree with the opinion that the deal achieves best consideration.

3.6 Programme

GTP have provided a programme which will be included in the development agreement and the dates for various milestones will be subject to contractual Long Stop Dates and Drop Dead Dates.

Assuming the development agreement is exchanged at the end of October, the relevant dates are as follows :

Phase 1A RMA	November 2019 – September 2020
Phase 1B planning consent	November 2019 – February 2021
Remediation and enabling Works	April 2020 – December 2021
Housing Delivery Start on Site	December 2020
First LAR Completions	December 2021 – May 2022

3.7 Next Steps

Once the DA has been signed, GTP will commence work as follows :

Commence reserved matters application on Phase 1A	November 2019
Commence Site Surveys and Investigation Works	November 2019
Commence detailed planning application on Phase 1B	December 2019
Commence work to relocate PRS	April 2020
Site Set-Up	June 2020
Housing Start on Site	January 2021
Commence Stage 2 Remediation Works	July 2021
First Completion of Affordable Housing	December 2021
Completion Phase 1A	March 2023
Completion Phase 1B	March 2026

4. ALTERNATIVE OPTIONS CONSIDERED

Do not do the deal with GTP – a robust procurement exercise has been carried out in order to secure GTP as preferred bidder and their offer was substantially stronger than any other bidders. The market has continued to soften since the bid process took place and it is highly unlikely that such a good offer would be achieved again if a new procurement exercise was run.

Reduce the amount of affordable housing, or affordable rented accommodation provided – if GTP submit a revised planning consent for Phase 1B they would be required to meet the Council and the GLA's affordable housing policy being 40% affordable housing with between 50% - 70% of that being affordable rented accommodation. Furthermore, increasing the amount of affordable housing, and in particular affordable rented housing, within the Borough is one of the administration's top priorities.

Do not transfer responsibility for remediation and PRS/IP Main relocation to GTP – officers consider the additional net costs to the Council for this risk transfer to be more than outweighed by the reduction in risk to the Council

5. REASONS FOR RECOMMENDATIONS

The original offer from GTP was secured in a competitive environment during a robust procurement exercise and was substantially higher than any other bidder. It is unlikely that such a good deal could be secured again due to a softening of the market and a general reduction in confidence amongst developers.

The changes in the deal since the original offer have been at the request of the Council and, whilst the land value has reduced, are otherwise materially to its benefit in terms of decreased risk and increased affordable rented housing.

6. COMMENTS FROM OTHER DEPARTMENTS

6.1 Financial Implications

See Part 2 report

6.2 Legal Implications

MD: 8th October 2019

- 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. Furthermore, pursuant to section 8 of the Housing Act 1985, the Council is required to consider the housing conditions and needs of their area with respect to the provision of further housing accommodation. The Council has the power under section 9 of that Act to provide housing accommodation. The Local Government Act 2003 gives the Council power to borrow for any purpose related to its functions, and to utilise capital receipts, subject to the limitations set out in that Act. The Council therefore has the statutory powers to enter into the transactions described in this report.
- 6.2.3 Public law principles apply to the decisions made by the Council in relation to the proposals set out in this report, including the Council's duty to take account of its fiduciary duty and to act prudently with public monies entrusted to it. The Council is also under a general duty to act reasonably and show that its decisions are made after having given due and proper consideration to all relevant factors (disregarding irrelevant factors).
- 6.2.4 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.
- 6.2.5 It is noted that outline planning permission has been granted for the development of the Phase 1 Meridian Water site comprising (among other things) up to 725 residential units, retail (A1/A2/A3), community (D1) and leisure (D2) floorspace. Entry by the into an agreed form Section 106 Agreement is a condition precedent to development taking place on the main site. Any variations to the permission and/Section 106 will need to be submitted to and approved by the Local Planning Authority pursuant to the Town and Country Planning Act 1990.

- 6.2.6 Throughout the engagement of GTP, the Council must comply with its obligations of obtaining best value, under the Local Government Act 1999.
- 6.2.7 Any property transactions (including the disposals and acquisitions detailed in this report and any appropriation from the General Fund to the HRA) entered into by the Council as a consequence of the subject matter of this report must comply with the Council's Property Procedure Rules and s123 Local Government Act 1972 (which requires the Council to obtain the best consideration that can reasonably be obtained for the disposal of its land to GTP). Accordingly, the disposal to GTP will be subject to the approval of the Cabinet Member for Finance and Procurement of Red Book valuations to be prepared by LSH and BNP Paribas in accordance with the Technical Appendix to Circular 06/03. Officers should seek further legal advice in the event that either of the valuations indicate that the proposed deal with GTP does not represent the best consideration that can reasonably be obtained.
- 6.2.8 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.

6.3 Property Implications

- 6.3.1 The following sections of the Council's Property Procedure Rules apply to this transaction.

11. Disposal - General

11.1 The Local Government Act 1972 s123 applies to all disposals. For Section 123 purposes, a disposal includes the grant of a lease of more than 7 years or an assignment of an existing lease which has more than 7 years to run.

11.2 To ensure transparency in all property transactions as a matter of general principle, disposals or lettings to any organisation, including charitable, voluntary or non-profit organisations, must be on the basis of market value, with any financial assistance or other gratuitous benefit to be provided by way of a grant rather than reduction in the disposal terms.

11.3 The Council is highly unlikely to dispose of a Property Asset at less than best consideration, but where this is approved by Cabinet under exceptional circumstances, the Council is potentially providing a subsidy to the new owner, developer and/or the occupier of the Property Asset such that there may be a distortion of competition. Where this occurs, the Council must ensure that the nature and amount of subsidy complies with State Aid Rules, as defined by Article 107(1) of the Treaty on the Functioning of the European Union, particularly if there is no element of competition in the sales/disposals process.

- 6.3.2 The initial disposal deal with Galliford Try met the criteria for market value and best consideration, as the price agreed was the best obtainable following an open market

exercise. The following renegotiated deal with Galliford Try is classified as an 'off-market' disposal, to which the following Property Procedure Rules apply, in addition to the General section above:

14. Disposal - Off Market

14.1 There may be instances where a disposal by way of open market sale would not achieve the best consideration reasonably obtainable. Examples include (but are not limited to) sales to a tenant, disposal to a development partner, disposal to an adjoining owner.

14.2 Such disposals are subject to a report prepared by the Responsible Senior Officer, and approved by the relevant Cabinet member, that includes:

14.2.1 Justification for such a disposal as being in the best interest of the Council

14.2.2 Written advice, including a market value, from an external registered valuer.

6.3.3 Officers in the Meridian Water team have been advised throughout the process outlined in this report by external property advisors, Lambert Smith Hampton (LSH). Lambert Smith Hampton have provided valuation advice and will be providing a Red Book Valuation in support of this disposal. An additional external property advisor; BNP Paribas, has also been appointed by the Meridian Water team, and they will be providing a second Red Book Valuation, which provides a further independent external perspective to confirm the deal is compliant with s.123 of the Local Government Act 1972. Any risks related to these Red Book valuations are the responsibility of LSH and BNP Paribas.

6.3.4 To ensure compliance with the Council's Constitutional Property Procedure Rules, this disposal is subject to the completion of external Red Book Valuations, undertaken by the two appointed Registered Valuers at LSH and BNP Paribas, confirming the status of the disposal in relation to s.123 of the Local Government Act 1972 'best consideration' and 'market value' and approved by the Cabinet Member for Finance & Procurement.

6.3.5 The Council will retain ownership of the freehold interest in all land within the scheme. The intention is to grant a 250 year leasehold interest to Galliford Try.

6.3.6 The Council will need to establish how it wishes to operationally hold and manage the proposed Council Homes in the future, with any subsequent property transactions, such as an appropriation to the Housing Revenue Account, being subject to a further report and compliance with s.123 Local Government Act 1972 and the Council's Property Procedure Rules where applicable.

6.3.7 The transaction has implications on the Council's commercial estate and Corporate Landlord liabilities, owing to the retention of ground floor commercial employment space by the Council. To meet the financial projections in the model, this accommodation will need to be of a suitable specification and to be let and managed well; not only to maximise income, but also to offer amenity and high environmental standards, in support of the private and affordable housing surrounding it. This will require management resources to be responsible for management, lettings and estate management. The Meridian Water long term estate management strategy is still being formulated and the management of the employment space will need to be co-ordinated with this procedure.

6.3.8 The public realm management will need to form part of the estate-wide management strategy. This is being formulated and it is imperative these arrangements and service levels are high quality and sustainable, to maintain local amenity standards and protect asset value.

7. KEY RISKS

1. GTP do not sign the deal
 - This is considered a very low risk as GTP have shown consistent and considerable interest in signing the DA and will have expended significant amounts of money in getting to this stage
2. Procurement challenge from another bidder
 - The Council's external legal advisors, Trowers and Hamlin, are reviewing the overall deal and will advise the Council on any procurement risk prior to signing the DA
3. Cadent delay PRS and/or IP Main relocation
 - This has always been a risk to the delivery programme for this scheme and the deal as described above with GTP is not expected to adversely affect the risk probability. However, GTP are more likely to have the skills, resources and relationships required to ensure that Cadent make good progress. The impact of any slippage is also much reduced as the Council are no longer responsible to GTP for delivery of the works, the only impact would be the potential extension of the Long Stop Dates within the DA

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.

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.

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.

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

There are no direct public health implications from this deal with GTP. 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).