

***Please note Part 2 report is now a confidential appendix.***

## **London Borough of Enfield**

### **Portfolio Report**

**Report of:** Programme Director – Meridian Water

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**Subject:** Part 1 - Meridian Works Site One: Authority to appoint procured contractor to enable project delivery.

**Executive Director:** Place Department

**Ward:** Upper Edmonton

**Key Decision:** 5060

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### **Purpose of Report**

1. On 25 July 2018, Cabinet authorised the Meridian Water Employment Approach report (KD 4717), including in relation to the delivery of Meridian Works One
2. Following this, on the 5 February 2019, the Lead Member for Meridian Water, in consultation with the Executive Director for Place, approved the procurement of works at the former VOSA site (KD 4796), in relation to the delivery of Meridian Works One.
3. The Meridian Works One project is focused on supporting professional and highly skilled makers and creative entrepreneurs and is directly aligned with the emerging Meridian Water employment strategy, as articulated in the Meridian Water Employment Approach agreed by Cabinet on 25 July 2018 (KD 4717). The project involves working with Building BloQs, an existing business within the Meridian Water regeneration area, to expand to provide high quality makerspace.
4. The project follows the emerging employment strategy and vision for Meridian Water by supporting local businesses. The project will safeguard 84 FTE jobs, and create 209 new FTE jobs.
5. The recommendations set out in this report reflect the agreements made by cabinet in July 2018 and instructions from the Meridian Water Programme Director in February 2019 to progress with the procurement of the Main Contract Works. The decision to progress with the tender process was on the basis of the Stace LLP Main Contract Works Pre-Tender Estimate, dated

December 2019, which demonstrated that the Main Contract Works was in line with the Cabinet Approved Budget.

6. This report provides an update on progress on Meridian Works One to date and specifically the procurement of a contractor to undertake the Main Contract Works. The contractor recommended for appointment (Bidder A) has been sourced via the London Tenders Portal and returned a tender with a value lower than their competitors but which exceeds the value of Stace LLP's Main Contract Works Pre-Tender Estimate.

### **Proposal(s)**

7. To note progress made with 'Meridian Works One' project to date, and the recommendations made in this report.
8. Approve the recommendation to appoint Bidder A procured through the London Tenders Portal, to progress the main works at the former VOSA site.
9. To authorise Legal Services to finalise and complete the building contract and to arrange for sealing of the same and any ancillary documents.

### **Reason for Proposal(s)**

10. Bidder A will complete the Main Contract Works for a price that is lower than those submitted by the other contractors invited to tender. In addition, their proposed programme will see completion of works achieved before the Works Long Stop Date of 31 March 2021, in the Lease for Agreement between LBE and Building BloQs.

### **Relevance to the Council's Corporate Plan**

#### **Good homes in well-connected neighbourhoods**

11. The Council's vision for Meridian Water is to create a vibrant and truly mixed-use environment with up to 10,000 homes, thousands of new jobs and facilities. Carefully curated meanwhile uses will provide an opportunity for early wins by quickly bringing life and activity to the area before permanent development begins and boost the local economy.

#### **Sustain strong and healthy communities**

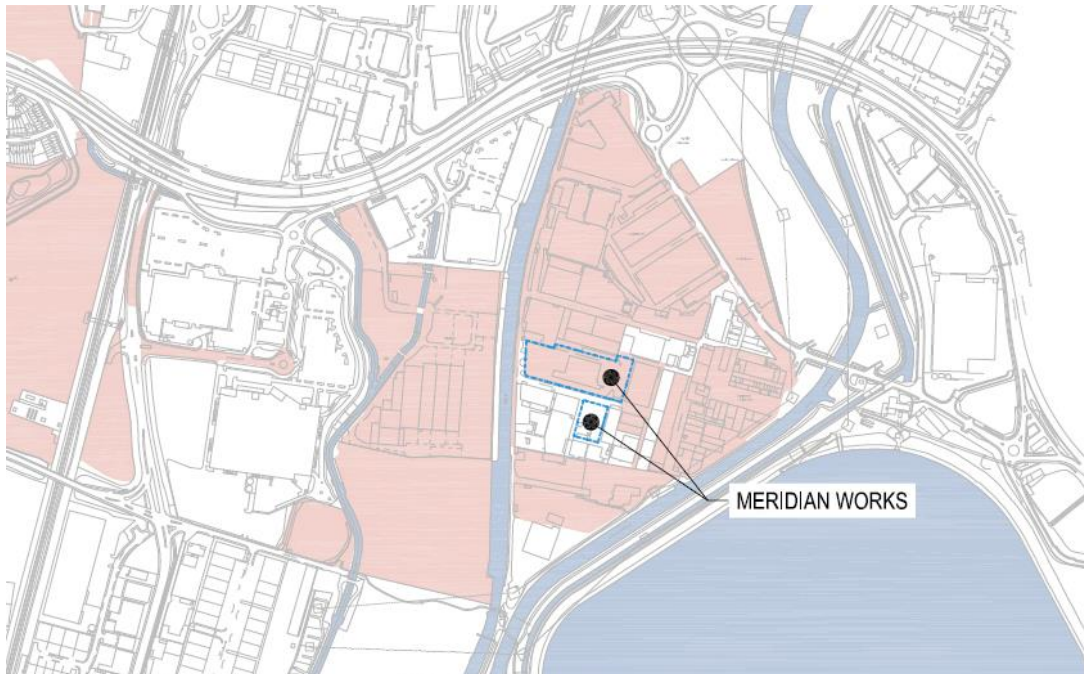
12. With investment in Meridian Works One, there is an opportunity for Meridian Water to benefit from the development of skilled creative industries cluster which has the potential to be regionally significant for makers and creative communities.
13. It is considered that proceeding with the delivery of additional high skilled creative employment space provided by Building BloQs is of fundamental importance to realising the "Your Place to Make and Create" pillar of Place Making.

#### **Build our local economy to create a thriving place**

14. The implementation of this project has a highly positive impact on this objective by facilitating the growth of skilled creative industries and boosting employment opportunities at Meridian Water and the borough. Please refer to the Meridian Water Employment Approach Cabinet report, KD4717, for further detail.
15. The project will safeguard 84 full time equivalent (FTE) jobs and create 209 new FTE jobs.
16. Vacant land and existing industrial buildings offer a significant opportunity by creating the right conditions for existing and new enterprises to be established, nurtured and grown rather than waiting for the long-term development.
17. The diversity of maker space uses within both the existing, and proposed expansion of the Building BloQs workshop which this report relates to, will provide higher levels of employment and employment density than an otherwise anticipated commercial letting for logistics and storage type uses which might be achieved at this site. Though the latter may be slightly more competitive in terms of a rental income, ultimately, they will fail to realise the Council's ambitions for both economic development and place making at Meridian Water.

## **Background**

### Project background and Cabinet authority



*Location of Meridian Works: 2 Anthony Way (the former VOSA site) and 4 Anthony Way (currently home to Building BloQs)*

18. The Meridian Works One project focuses on supporting professional and highly skilled makers and creative entrepreneurs and is directly aligned with

the emerging Meridian Water employment strategy, as articulated in the Meridian Water Employment Approach agreed by Cabinet on 25th July 2018 (KD 4717). The project, which is supported by the Greater London Authority (GLA), involves working with Building BloQs, an existing business within the Meridian Water regeneration area, to expand to provide high quality 'makerspace'.

19. On 25<sup>th</sup> July 2018 Cabinet authorised a budget and revised scope for the Meridian Works One project (KD4717) to provide approximately 35,000 square feet of existing (refurbished) and new commercial space at Meridian Water for Building BloQs, to be relocated from their current premises at 4 Anthony Way to the larger former VOSA Depot site at 2 Anthony Way.

Meridian Works One: Project progress following July 2018 Cabinet authority

20. The Council has completed the acquisition of 4 Anthony Way which increases its landholdings at Meridian Water and its ability to deliver both meanwhile projects to generate employment and revenue, and longer-term development to realise the vision of the masterplan.
21. A project team of Architect (5<sup>th</sup> Studio), Engineers (Arup), Quantity surveyor/Employer's Agent (Stace), the Council's Project Manager and representatives from Building BloQs was assembled. The team progressed the scheme design to transform the site of the former VOSA Depot at 2 Anthony Way, partly through refurbishment of the existing structure and the construction of a new extension building.
22. After various options were tested, a cost plan was developed at the end of RIBA Stage 1 which informed the scope and level of specification for the emerging scheme design to ensure the project is delivered within the approved Cabinet budget. Assurance that the alignment of the Central spine road the new east west road to be delivered as part of the Strategic Infrastructure works and the design of the access road to enable continued access for vehicles including buses to the Arriva depot, was secured.
23. The Council agreed the revised outputs, project scope and budget with Building BloQs and the GLA, to support a necessary Deed of Variation to the GLA Funding Agreement which could be signed subject to the approval of the recommendations in the 2019 report (KD 4796). The original project was developed in late 2015 following a successful bid to the GLA as part of the London Regeneration Fund (LRF) and while the project is still supported by a £1.35m grant from the GLA, the set of outputs and anticipated scope have changed since Cabinet authorised the new strategy to deliver Meridian Works One at the former VOSA building and 4 Anthony Way. The new outputs reflect the reduced scale of the building at VOSA and 4 Anthony Way compared to the original proposed location at Orbital Business Park. The revised deed of variation allows for outputs to be reduced/alterd further to meet any revisions required as a result of a fixed budget.
24. The costs of the project are being met by way of grant funding from the GLA plus additional grant funding from the Council, both of which are being used to fund Building BloQs' delivery of machinery, fit out and other capital project

costs. The Council has also agreed to fund the costs of the building refurbishment and construction project to shell & core, for which it will receive a market rent. Due to the GLA London Regeneration Fund (LRF) deadline of 31 March 2019 for drawing down funding, and the timescales for delivering a revised Meridian Works One project at a different site, the Council agreed with the GLA that the GLA funding would be drawn down against those elements of the project where expenditure has been incurred by that date, namely the acquisition cost of 4 Anthony Way which is required to deliver floorspace to meet the wider outputs, and the capital costs for Building BloQs which are largely for machinery that will be used now and when the new premises are occupied.

25. Building BloQs has entered into an Agreement for Lease in respect of the former VOSA site. The Council received a report from an independent valuer confirming that the terms of the disposal represent Best Value for the Council in respect of section 123 the Local Government Act 1972.
26. LBE Finance liaised with Building BloQs to ensure sufficient information on their Business Plan was provided. The Executive Director of Resources, as delegated by Cabinet, has now approved the Building BloQs Business Plan.

Meridian Works One: Progress following February 2019 approval, programme and next steps

27. The planning application was approved by the LPA in December 2019, which achieved the Planning Long Stop Date of 1<sup>st</sup> September 2020, which is necessary in the Agreement for Lease between LBE and Building BloQs. The planning permission was issued with a set of conditions which require discharging at various stages during and after the delivery of Meridian Works One. These need to be satisfied by either LBE, Building BloQs as the tenant, or the contractor undertaking the Main Contract Works, as each condition is pertaining to a parties' involvement in the project. The conditions were reviewed and the responsibilities for discharging each of them were confirmed at a Project Team Meeting held on 22 January 2020 between LBE and Building BloQs.
28. Following planning permission being granted, the next step in the programme was to procure a contractor to undertake the Main Contract Works. In December 2019 Stace LLP prepared a Pre-Tender Estimate (PTE) of the works critical to delivery, this was in line with the Cabinet Approved Budget. The PTE was approved by the Meridian Water Programme Director and the team were instructed to progress with the tender. An additional sum was included in the PTE for options costs or additional extras, relating to items that would be greatly beneficial but not necessarily critical to delivery, these were:
  - Sky Garden Café
  - Repairs to existing roof
  - Paint to external walls of existing building
  - Additional external works.

This report is seeking authority to proceed with the works required to be undertaken by the landlord in order to comply with the Agreement for Lease.

The option works are for future consideration and subject to separate approval.

#### The tender process

29. The London Tenders Portal was used to procure the Main contractor to deliver refurbishment works to the former VOSA building and the construction of the new extension building, to a shell and core specification, under a single stage Design and Build procurement route. Six contractors were invited to tender. The form of building contract will be a JCT Design and Build Contract, 2016 Edition – LBE legal to review and provide comment on any amendments.
30. The tender documents were issued on 21 January 2020, with the tender period stipulated to close on the 14 February. During the tender process requests to extend the tender period were received from three of the tendering contractors. As one contractor had declined the tender, it was an opportunity to extend the tender period and also introduce another contractor to the list of tenderers in order to obtain a good spread of tender returns. The tender return date was revised to the 10<sup>th</sup> March 2020; of the six contractors, three withdrew and three returned a price before the close.

#### Tender evaluation and contractor selection

31. The evaluation criteria of the tenders placed 100% weighting on cost, subject to the conditions of the tender being satisfied. Analysis of the tenders returned has been undertaken, each has been examined and compared on an item by item basis, with an equalisation process undertaken to account for any exclusions and clarifications noted.
32. Upon conclusion of the analysis, Bidder A has been recommended. The price submitted by Bidder A is the most competitive of those returned, however, it exceeds the value of the PTE prepared by Stace LLP for the Main Contract Works.
33. While Bidder A has specified the pre-contract period at ten weeks, which is longer than estimated, they can achieve the 28-week construction programme which is compliant with the tender. It is recommended that Bidder A is appointed to complete the Main Contract Works required to deliver Meridian Works One.
34. The tender price submitted by Bidder A on 10 March 2020 is valid for a period of twelve weeks, which expires on 2 June 2020. We requested that the tenderers provide an option to hold their tenders open for a further 10 weeks, all three accepted but one has advised that this will be an additional cost to LBE – see Part 2.

#### Proposed Programme/ Key dates

35.

ITT issued	21.01.2020
Tender return date	10.03.2020

Tender analysis/ evaluation	10.03.2020 to 26.05.2020
Tender accepted	2.06.2020
Contract start date	3.06.2020
Pre-construction period end	7.08.2020
Sectional completion 1: the existing premises and external areas to the North	27.11.2020
Sectional Completion 2: the new premises and the external service yard	28.02.2021
Long stop date, in the Agreement for lease to complete	31.03.2021
End of defects liability period	27.02.2021

#### Provision for delays related to Covid-19

36. Stace LLP have advised that as Covid-19 is a known risk at the point of entering into contract Force Majeure may no longer be applicable as a Relevant Event, should any delays occur for this reason. They are therefore recommending that an amendment to the Contract is negotiated that enables any delay due to Covid-19 to be considered as a Relevant Event; this will provide a mechanism to award an extension of time to the contractor, but not costs. The proposed addition/ wording is below and has been agreed to by lowest bidder:

*2.26.15 – Delay or disruption to progress caused by Covid-19 or similar pandemic*

#### Works to be completed by Building BloQs

37. Separate to the Main Contract Works, fit out works in accordance with a specification agreed in advance by the Council will be undertaken by Building BloQs. A portion of the grant funding provided to Building BloQs will be used to fund these works. The scope of these fit-out works which sit outside of the building contract are subject to further design development and consideration by the Council and the proposed Agreement for Lease makes provision for a reduction in specification as necessary to ensure that the project remains within the available budget as approved by Cabinet at its meeting in July 2018.

#### **Equalities Impact of the Proposal**

38. 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.
39. Corporate advice has been sought in regard to equalities and whilst there are no Equalities implications in agreeing this report seeking authority to sign key agreements to enable project delivery. It is recommended that as part of the review of the Meridian Water Project, the Meridian Water EQIA be reviewed and updated at an appropriate time to embed Equalities and Diversity in the future procurement, design and delivery of the project.

40. In addition to this it should be noted that projects or work stream deriving from this may be subject to a separate Equalities Impact Assessment and they will therefore be assessed independently on the need to undertake an EQIA to ensure that the council meets the Public Sector Duty of the Equality Act 2010.

41. It is also recommended that any contracts awarded should include a duty on the successful applicant to assist us with meeting our obligations under the Equalities Act 2010.

### **Risks that may arise if the proposed decision and related work is not taken**

42. Project specific risks have been included within Part 2 of this report. The content of the risks contains commercially sensitive information.

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

43. Project specific risks have been included within Part 2 of this report. The content of the risks contains commercially sensitive information.

### **Financial Implications**

44. See Part 2 Report.

### **Legal Implications**

*Implications prepared by MD on 4<sup>th</sup> June 2020 (based on report circulated at 11:06 on 4<sup>th</sup> June 2020)*

45. Under s1(1) Localism Act 2011 the Council has a general power of competence to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles. This power must be exercised in a reasonable and proper way with due regard to the Council's fiduciary duty to look after taxpayers' funds entrusted to it. When embarking on any project, the Council must have due regard to whether the project will be a prudent use of the Council's resources both in the short and the long term.

46. On 1<sup>st</sup> March 2019 the Council entered into a Grant Agreement and Agreement for Lease (among other documents) with Building BloQs at Meridian Works Limited ("**BloQs**") to facilitate the delivery of the Meridian Works project at the former VOSA site, Anthony Way. Pursuant to these documents the Council has agreed to use reasonable endeavours to complete certain works specified in the agreement for lease by the date falling 15 months after the date of grant of planning permission. There is provision in the Grant Agreement for the Council and BloQs to agree amendments (including a reduction in the overall grant available) and/or a requirement for BloQs to secure additional funding (up to £50,000) to fund any additional costs. Senior Regeneration Officer Ian Freshwater will engage with BloQs in this regard at a time when there is more certainty in relation to the amount of contingency sum (if any) utilised to fund the construction costs.



47. The estimated value of the construction contract is below the Public Contracts Regulations 2015 threshold. However, the procurement must be conducted in accordance with the Council's constitution, including the Contract Procedure Rules. As fewer than 5 bids were received the P&C Hub must approve the award (see paragraph 6.4.3 below). Given that the value of the contract exceeds £1m, the contractor must provide sufficient security (e.g. by way of parent company guarantee or performance bond).
48. Throughout the engagement of the building contractor the Council must comply with its obligations of obtaining best value under the Local Government Act 1999.
49. All legal agreements arising from the matters described in this report must be approved in advance of contract commencement by Legal Services for and on behalf of the Director of Law and Governance. The contract must be executed under seal.

### **Property Implications**

50. There are no direct property imps from this report.
51. However, as the Council previously entered into a Grant Agreement and Agreement for Lease with Building BloQs to facilitate the delivery of the Meridian Works project at the former VOSA site, Anthony Way. Pursuant to those documents the Council has agreed to use reasonable endeavours to complete certain works specified time frame and non-approval of this report will put that requirement under threat and could put the Council in breach of that agreement.

### **Procurement Implications**

52. The procurement was undertaken using the London Tenders Portal (ref DN454220).
53. The Contract Procedure Rules (CPR's) state that a minimum number of 5 bids must be received. As only 3 bids were received approval to proceed to the award stage must be obtained from the Procurement & Commissioning Hub.
54. The Stace LLP Tender Report analysis undertaken has reviewed the submitted bids and made a recommendation to award to the preferred supplier. In accordance with CPR's the P&C Hub approves to proceed to award subject to the appropriate delegated authority being obtained.
55. As the contract is over £250k the service must ensure that sufficient security has been considered.
56. The service must ensure that the authority to procure has been obtained and must be uploaded onto the London Tenders Portal.

57. The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the London Tenders Portal including future management of the contract.
58. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.
59. *Procurement Implications provided by Peter Alekkou on 03 June 2020.*

### **Options Considered**

60. Do nothing. Without appointing a contractor to undertake the Main Contract Works, it would not be possible to deliver Meridian Works One and the Council would be in default of its obligations in the Agreement for Lease.
61. Re-tender the scheme to an increased number of contractors to obtain a better price than that submitted by Bidder A. The tender process obtained competitive prices, there is no guarantee that an improved price will be obtained with retendering – costs could go up. A re-tender will have significant programme implications resulting in key dates within the Agreement for Lease not being achieved. The Stace Pre-Tender Estimate demonstrates that Bidder A measured term works are comparable in cost. It is not recommended to pursue this option.
62. Value Engineer scheme to bring costs back in line with budget. The scheme has already gone through Value Engineering during the design process. Any further alterations will materially change the building, this will result in having to revise the planning consent which will impact on programme and the scheme having to be retendered which will have programme and possible cost implications. Programme impacts associated with this option will result in the Agreement for Lease key dates not being met. This is not recommended.
63. The recommendations set out in this report reflect the agreements made by Cabinet in July 2018 and any other approach, for example withdraw from the deal or to seek an alternative site, would not be in line with that decision and would result in the withdrawal of GLA funds and are not therefore considered appropriate.

### **Conclusions**

64. It is recommended that the Executive Director – Place Department, approves the appointment of Bidder A to progress the main works at the former VOSA site. Bidder A will complete the Main Contract Works for a price that is lower than those submitted by the other contractors invited to tender. In addition, their proposed programme will see completion of works achieved before the Works Long Stop Date of 31 March 2021, in the Lease for Agreement between LBE and Building BloQs.

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## **Appendices**

Appendix 1: Part 2 report [Confidential appendix]

## **Background Papers**

None