

London Borough of Enfield

Operational Report

Report of **Peter George (Programme Director – Meridian Water)**

Subject: Land Acquisition for Meridian Water SIW

Ward: Upper Edmonton

Key Decision: KD 5300

Purpose of Report

1. The purpose of this report is to seek approval for entering into a Settlement Agreement with A and A Skip Hire Ltd and its owner and sole shareholder Paul Vale (A&A) for the acquisition of the underlease of 10-12 Harbet Road, Edmonton between Hastingwood Securities Limited and A&A Skip Hire Ltd (the underlease) and payment of compensation for loss of the business at the property, which is required to deliver the Strategic Infrastructure Works (**SIW**).

Proposal(s)

2. It is recommended that the Programme Director Meridian Water:
 - i. Approves the Heads of Terms in the form attached to the Confidential Appendix.
 - ii. Approves the entering into of an Agreement for the Sale of the Lease and Settlement Agreement (the “Settlement Agreement”) and other associated legal documents with A&A substantially based on the Heads of Terms and Settlement Recommendation attached to the Confidential Appendix with changes as may be agreed in consultation with the Director of Law and Governance and any subsequent variations that may be necessary.

Reason for Proposal(s)

3. Entry into the legal agreements with A&A will facilitate the land assembly and acquisition of land and rights necessary to enable the delivery of the Strategic Infrastructure Works (SIW) required to unlock development at Meridian Water. It will also secure that A&A will not submit any challenge to the confirmation or implementation of The London Borough of Enfield (Meridian Water Strategic Infrastructure Works) Compulsory Purchase Order 2020 (CPO). The agreed terms are within approved budgets for land assembly and compensation for the CPO.

4. This acquisition is the culmination of months of negotiations with A&A to reach voluntary agreement rather than having to use compulsory purchase powers.
5. This acquisition will contribute to the assembly of all land needed to deliver the SIW, which will unlock the development potential of Meridian Water leading to the delivery of 5,000+ homes and thousands of jobs as well as associated social infrastructure, as well as comprehensive improvements to the environment for example the creation of parks and green spaces, improved public realm and pedestrian and cycling connections.
6. This particular parcel of land is required in order to provide flood compensation on the land east of Harbet Road by reducing ground levels within the land. The Council has already acquired Thames Water land in June 2021 and entered into a contractual agreement with LVRPA and NLWA. Therefore, the agreement with A&A is the final agreement needed to secure all of the land required to implement the Flood Mitigation measures as part of the SIW.
7. The land will become a part of a new public park known as Edmonton Marshes Soft, helping to deliver one of the three Meridian Water's placemaking pillars, the **Parklife on your doorstep** pillar.

Relevance to the Council's Corporate Plan

8. This report relates to the following aspects of the Corporate Plan:

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

Flood compensation is essential to protect developable land from flooding. Coupled with the rest of SIW measures, this will help to the development of approximately 5,000 homes (with the potential for an additional approximate 5,000) and the regeneration of Meridian Water. The infrastructure will ensure that the development is well connected.

- **Safe, Healthy and Confident Communities**

Edmonton Marshes will become a green space which is vital to a healthy community.

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

Flood mitigation will help to enable development of homes as well as non-residential spaces including retail, workspace and community space. This will enable animated streets with mixed uses, developing a local economy and creating a thriving place.

General Background

9. On 22nd January 2020 Cabinet (KD 4832) authorised a Compulsory Purchase Order (CPO) for the delivery of Strategic Infrastructure Works (SIW) at Meridian Water, subject to delegations, as were outlined at paragraphs 2.4, 2.5 and 2.7 of the Cabinet Report.
10. The CPO was made on 13 August 2020 and following the receipt of objections, it was listed for a public inquiry, which took place before an Inspector, between 19th April 2021 and 28th April 2021.
11. The CPO was confirmed without modification on 22 July 2021, with the Inspector's decision report issued.
12. The Meridian Water programme budget for the rest of 2019/20, as well as 2020/21 and 2021/22, was authorised as part of the Cabinet Report of 16th October 2019 and Full Council Report of 20th November 2019 (KD4469), including budget for the acquisition of land interests needed to deliver the SIW. A grant funding agreement was entered into between the Council and the Ministry of Housing Communities and Local Government (MHCLG) on 30th October 2020 to pay for the delivery of the SIW via the Housing Infrastructure Fund (HIF)
13. The CPO is for the acquisition of land and rights required to deliver the SIW at Meridian Water, not for the entire Meridian Water Regeneration Area. A full explanation of the CPO is set out in the Statement of Reasons and Statement of Case. The SIW are required to unlock the development of land at Meridian Water enabling the initial delivery of up to 5,000 homes, with an aspiration to deliver an additional 5,000 in the longer term. This includes the development of 2,300 homes in the central part of the Meridian Water site, known as Phase Two, on land already owned by the Council.
14. Planning Permission for the SIW was obtained in July 2020. The Council resolved to grant planning permission for the development of the 2,300 homes of Phase Two on 11 March 2021, subject to finalising conditions and a legal agreement. On 12th March 2021 the Council appointed a framework of contractors in respect of the delivery of non-rail SIW and on 16th March 2021 the Council entered into a pre-construction services agreement with Vinci Construction UK Limited in respect of the works.
15. The Council is aiming to acquire land within the Order boundary by agreement and is negotiating with all known parties with affected land interests. The Council has already agreed terms with ten parties and will continue to negotiate with all remaining landowners to agree acquisition terms voluntarily.
16. Terms of agreement have now been reached with A&A and are summarised in the Confidential Appendix (Appendix 1). The terms agreed ensure that the land required for the SIW, including for the flood compensation, will be secured within the timeframe for delivery of all works.

Details of Acquisition

17. The Property being acquired comprises the underlease dated 1 October 2008 between Hastingwood Securities Limited and A&A Skip Hire Ltd for a term to expire 30 September 2031 for 0.28 acres of land at 10-12 Harbet Road which is currently used as a skip hire and waste transfer site.
18. The land is required for the Meridian Water Strategic Infrastructure Works (SIW) and is therefore included within the CPO being promoted by the Council. The CPO is supporting the Housing Infrastructure Fund works (HIF) to ensure that all land is assembled within the requisite timescales for funding drawdown and delivery of works. As with all parcels in the CPO, this parcel of land is essential for the delivery of the HIF works, in this instance for the flood alleviation and flood mitigation works.
19. Negotiations have been led by CPO Surveyor Matthew Bodley, and the Council has already entered into an agreement with the long leaseholder of plot 136 (Hastingwood Securities Limited) which enables the Council to serve notice on the long leaseholder of plot 136 to require the long leaseholder of plot 136 to enter into a deed of surrender of part of the long lease (being plot 136) thereby terminating Hastingwood Securities' land interest in this plot (Decision taken under delegated authority MW SIW - 2). Terms of a new agreement have now been reached in respect of the acquisition of the Underlease and payment of compensation for loss of the business at the property.
20. A valuation has been undertaken and a settlement recommendation produced by Matthew Bodley. The settlement report recommends the entering into an agreement with A&A on the terms negotiated. For an assessment of the value of the underlease and the compensation payable see Confidential Appendix (Appendix 1).

Programme, Life Cycle Costs and Management of the Land

21. This plot is a triangular shaped site on the East side of Harbet Road. It would be incorporated into the existing Property Management and Security regime of the wider Stonehill site, in the same as all other plots along the Harbet Road corridor.
22. Although costs of clearance of waste and machinery above the ground are included in the agreement, the underground waste tanks will remain on site until removed as part of the SIW. The costs for removing the tanks have been included into the SIW budget accordingly.
23. Once acquired, the plot of land will be handed over to the SIW Contractor for the delivery of comprehensive Strategic Infrastructure Works. It is anticipated that this could take place in October 2021.

Main Considerations for the Council

24. The conclusion of this agreement would secure that A&A will not challenge the CPO which has been confirmed, or implementation of the powers granted. The Settlement Agreement includes confirmation of this point by A&A.
25. This agreement commits the Council to acquire the underlease needed for the SIW. However, if the Council were to instead rely on the confirmed CPO, it would still be acquiring the land and lease anyway and would have to pay due compensation for the interests it is acquiring and mitigate any disturbance and pay other heads of claim under the compensation code.
26. Entering into voluntary agreement removes the uncertainty, risk and perceived hostility associated with exercising compulsory purchase powers when contested, while essentially achieving the same ends. Government guidance on acquisition by compulsory purchase recommends that the acquiring authority should continue to negotiate with the purpose of reaching voluntary agreement with all parties throughout the CPO process and up to the point of exercising powers. In other words, provided that terms are agreeable to both parties, voluntary acquisition is always preferable to compulsory acquisition.

Public Health Implications

27. The Meridian Water development in general has significant potential to benefit residents' wellbeing. In particular, this land will become a part of Edmonton Marshes. This means that residents in Upper Edmonton, a ward with currently limited access to green open space will have a short walk or bus ride to 8.5 hectares of ecologically rich green open space. The remainder of the SIW, protected by flood remediation, will provide a road with pedestrian and cycle paths, hence will provide a healthier walking and cycling east-west route avoiding the polluted north-circular, and a healthier alternative to travelling by car.

Equalities Impact of the Proposal

28. An initial Equalities Impact Assessment of the CPO was conducted in December 2019 internally by the Council, with a subsequent assessment undertaken by external consultant Ottaway Strategic Management in February-March 2020 (see Cabinet Report KD 4832 dated 22/01/2020). Both assessments identified no direct negative impact resulting from the CPO. However, there are some groups with protected characteristics who are likely to experience proportionately higher consequences of the regeneration of Meridian Water and these are:
 - a. White other staff, including Eastern European, Turkish and Greek;
 - b. BAME Staff;

- c. Women in properties in third party ownership; and
- d. Older members of the workforce potentially less able to re-engage in the labour market if their jobs are lost to the relocation programme.

The EQIA proposed several mitigation measures to address these indirect impacts which the Council intends to implement including the implementation of effective equalities monitoring by the Council and development and construction partners, and support of businesses with information on alternative locations. The EQIA also acknowledges significant potential positive impacts of the regeneration of Meridian Water (including for example, new homes, social infrastructure and employment growth) and that these benefits will likely impact on all the aforesaid groups having protected characteristics.

Environmental and Climate Change Considerations

- 29. The land will be a part of Edmonton Marshes, creating a publicly accessible open amenity space and supporting greater biodiversity.
- 30. The land will be used for flood compensation, supporting the remainder of the SIW which will also provide a new road that will facilitate the extension of bus routes, provide better connections with the new Meridian Water station and provide convenient and safe pedestrian and cycling routes will reduce carbon emissions by supporting the modal shift in transport from cars to walking, cycling and public transport.

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

- 31. **Risk:** The Council does not enter into a voluntary agreement with A&A and has to rely on CPO powers to gain access to the land and rights needed to deliver SIW in this part of the site.

Commentary: The public inquiry into the CPO took place between 19 April and 28 April 2021. On 22nd July 2021 the Planning Inspector appointed by the Secretary of State confirmed the CPO without modification. Arrangements are being undertaken for a data refresh to ensure that all affected parties are accurately served with notification. Following publication and service of notice of the decision, the Council will thereafter need to arrange implementation of powers, either through General Vesting Declaration or Notice to Treat and Notice of Entry, which takes a further 3 months. Entering into the voluntary agreement now would allow access to this parcel of land sooner and give certainty as to the timetable for acquiring the land required. Furthermore, it would secure that A&A will not submit any challenge to the implementation of the CPO.

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

32. **Risk:** That the acquisition will incur maintenance costs.

Commentary: Once the underlease is acquired, the Council will gain full control over this plot of land, therefore assuming responsibility for its maintenance.

Mitigation: A&A will clear the site above ground as part of the Settlement Agreement. The underground waste tanks will be removed as part of the SIW, and the costs have been included into the SIW budget accordingly.

Financial Implications

33. See **Confidential Appendix**

Legal Implications

MD 29th July 2021

34. In respect of the making of the CPO, please refer to the detailed legal implications set out in the Cabinet Report of 22nd January 2020 (Meridian Water Infrastructure Compulsory Purchase Order, KD 4832).

Section 227 of the Town and Country Planning Act 1990 provides power for the Council to acquire land by agreement where required for any purpose for which a local authority may be authorised to acquire land under section 226 of the Town and Country Planning Act 1990. Furthermore, the Council has the power under section 120 of the Local Government Act 1972 to buy land by agreement for the purposes of any of its functions or for the benefit, improvement or development of its area. The land acquisition must comply with the Council's constitution including but not limited to the Property Procedure Rules, which require that a valuation prepared by an appropriately qualified valuer is prepared in respect of the asset to be acquired.

Section 111 of the Local Government Act 1972 permits local authorities to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of their functions and Section 1 of the Localism Act 2011 provides the Council with a general power of competence. The Council therefore has sufficient power to enter into the documents proposed by this report.

On 30th October 2020 the Council entered into a grant funding agreement with the Secretary of State for Homes, Communities and Local Government pursuant to which funding will be made available to the Council to fund infrastructure related expenditure at Meridian Water. Availability of grant funding is subject to certain conditions precedent including but not limited to (i) the CPO being confirmed and free from challenge and (ii) the Council having all rights required in the site to secure access to deliver or procure the delivery of the infrastructure works. The

legal agreements contemplated by this report will assist the Council in demonstrating compliance with the latter condition in respect of this part of the infrastructure site. The Council must continue to ensure that all requirements of the grant agreement are complied with, including but not limited to complying with agreed milestones for project delivery.

The Council has a fiduciary duty to look after the funds entrusted to it and to ensure that its Council tax and ratepayers' money is spent appropriately. The Council must carefully consider whether the transactions proposed in this report will be a prudent use of the Council's resources.

The proposed agreement includes provision for compensation in advance of the CPO being confirmed. The Government's "Guidance on Compulsory purchase process and The Crichel Down Rules" (Ministry for Housing Communities and Local Government CPO Guidance July 2019) advises at paragraph 3 that an acquiring authority can take into account the wider deal, including savings achieved when considering offering financial compensation in advance of a compulsory purchase order. Furthermore, in term of value for money, consideration can be made to all of the costs involved in the compulsory purchase process when assessing the appropriate payment. For instance, legal fees, wider compulsory purchase order process costs, the overall cost of project delay and any other reasonable linked costs.

It is noted that the agreement with A&A is in full and final settlement of compensation. In the event that the Council instead had to rely on the CPO, A&A would claim compensation, based on the compensation code, which includes valuation principles set out in the Land Compensation Act 1961, Compulsory Purchase Act 1973 and case law. A&A would have 6 years from confirmation of the Order to submit a claim and could refer the matter to the Upper Tribunal (Lands Chamber), in the event of dispute.

The public sector equality duty under section 149 of the Equality Act 2010 requires the Council to have due regard to: (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; and (ii) the need to advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equalities Impact Assessment prepared in connection with the Compulsory Purchase Order contains an Action Plan which should be monitored throughout the process.

All legal documents to be entered into in connection with the subject matter of this report must be approved in advance by Legal Services on behalf of the Director of Law and Governance.

Workforce Implications

35. N/A

Property Implications

36. This report deals with the formalisation of an agreement to acquire land in advance of a CPO in order to facilitate the SIW. It has been negotiated by the Councils agent in accordance with the Compensation Code and fully covers acquisition at market value and should be progressed.

Alternative Options Considered

37. The alternative option would be not to enter into this agreement with A&A, but instead rely on Compulsory Purchase powers to acquire the land and rights. This is rejected as terms have now been agreed with A&A for the acquisition of land and rights via private treaty. For further information see Confidential Appendix.

Conclusions

38. It is recommended that the Programme Director of Meridian Water approves the terms of agreement with A&A for the acquisition by the Council of the underlease and for payment by the Council to A&A of compensation to enable the SIW and approves the entering into of any other legal documentation required to conclude the agreement with A&A.

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Appendices

Appendix 1 – Confidential Appendix
Appendix 2 – Plan showing A&A land plot