

## OFFICER DECISION RECORD SHEET

**Name of decision maker:** Assistant Director (Housing)

**Service Area:** Housing Development

**Title of Decision:** To approve the signing of the S38 agreement and transfer documents for the Sale of the 21 units at the Martindale Development

**Decision made and reasons:**

**Decision:** To approve the signing of the S38 agreement with Hertfordshire County Council (HCC) and amendments to the transfer documents required as part of the conveyancing pack for the sales of the 21 units at the Martindale Development. Stationers Place.

**Reason:** The Council has previously approved to market up to 21 dwellings from their Martindale development of 65 units.

Cabinet approval has been obtained to 1) appoint Bugler Development on a JCT D&B contract to deliver these units and 2) appoint Site Sales and to market these units from offer through to purchase.

In consultation with Hertfordshire County Council they have agreed to adopt the highway within the development, at the public's expense following the 12 months defect period, for this the contractor Bugler have issued a bond to cover the costs (at a level as required by HCC .

Winckworth solicitor have also been appointed to act on behalf of DBC as the vendors solicitor. In order to comply with the section S38 agreement the Council need to agree to a standard 'visibility splay' clause, which will give the council some liability for maintenance and safety obligations in small areas of the development, not allocated to a sales plot. In order to sell these units and devolve liability to the purchaser, a new clause is required to be included within the transfer documents.

Consultation with Winckworth and DBC legal team has confirmed that the risk to DBC is minimal and a S38 is preferable to having liability and maintenance obligations for the whole carriageway.

**Reports considered:**

S.38 Agreement and plan; Transfer document

**Officers/Councillors/Ward Councillors/Stakeholders Consulted:**

Housing Development Group Manager

Housing Development Team Leader

Assistant Director (Finance & Resources)

Legal Governance Team Leader (Planning and Property)

**Financial Comments:**

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### **Deputy Monitoring Officer Comments:**

No comments to add to the report.

### **Deputy S151 Officers Comments:**

The council has minimised the volume of land and assets that will remain an ongoing DBC liability.

The Roadway will be maintained by HCC and the vast majority of the green space is the responsibility of the new home owners/occupiers. There is now a minimal amount of road verges that we have arranged to be maintained by DBC in perpetuity, and the cost of this maintenance is minimal.

### **Financial:**

The contractor (Bugler) has provided a bond to cover repairs during the defect period, after which HCC will adopt full liability, except for the areas of visibility transferred to the 21 purchasers and small areas for DBC to cover. There is no current value to this liability other than some landscaping maintenance, which will be actioned by DBC's Clean Safe and Green team as part of their maintenance strategy for the site.

### **Options considered and reasons for rejection:**

If this approval is not made the Council will be liable for the total maintenance of the carriageway and associated street furniture that services this development.

### **Officer Signature:**

Date: