



<b>Report for:</b>	Cabinet
<b>Title of report:</b>	<b>Marchmont Fields – Award of JCT Design and Build Contract to Bugler Developments Ltd to deliver the new housing development</b>
<b>Date:</b>	18 July 2023
<b>Report on behalf of:</b>	Councillor Simy Dhyani, Portfolio Holder for Housing and Property Services
<b>Part:</b>	Part I with Part II procurement report annexed
<b>If Part II, reason:</b>	
<b>Appendices:</b>	Appendix A – Proposed Development Plan Appendix B – Site Plan Appendix C – Community Impact Assessment
<b>Background papers:</b>	
<b>Glossary of acronyms and any other abbreviations used in this report:</b>	DMC – Development Management Committee GF – General Fund HRA – Housing Revenue Account ITT – Invitation to Tender JCT – Joint Contracts Tribunal D&B – Design & Build

## Report Author / Responsible Officer

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<p><b>Corporate Priorities</b></p>	<ul style="list-style-type: none"> <li>• A clean, safe and enjoyable environment</li> <li>• Building strong and vibrant communities</li> <li>• Ensuring economic growth and prosperity</li> <li>• Providing good quality affordable homes, in particular, for those most in need</li> <li>• Ensuring efficient, effective and modern service delivery</li> <li>• Climate and ecological emergency</li> </ul>
<p><b>Wards affected</b></p>	<p>Grovehill Ward</p>
<p><b>Purpose of the report:</b></p>	<p>To be read in conjunction with Part II.</p> <ol style="list-style-type: none"> <li>1. To seek approval to enter into the JCT Design &amp; Build 2016 (D&amp;B) contract with Bugler Developments Ltd for the delivery of 32 homes at the Marchmont Fields development.</li> <li>2. To provide delegated authority to the Council's Assistant Director (Legal &amp; Democratic Services) to execute and complete all legal agreements ancillary to the JCT Design &amp; Build Contract 2016 and/or reasonably required to complete the Project, including (but not limited to): <ol style="list-style-type: none"> <li>a. all professional appointments;</li> <li>b. collateral warranties; and</li> <li>c. Agreements under <ul style="list-style-type: none"> <li>S.38, &amp; S.278, of the Highways Act 1980;</li> <li>S.247, Part III of the Town and Country Planning Act 1990;</li> <li>S.104 of the Water Industry Act 1991, and</li> <li>S.50 of the New Roads and Street Works Act 1991.</li> </ul> </li> </ol> </li> </ol>
<p><b>Recommendation (s) to the decision maker (s):</b></p>	<p><b>Principal Contractor Appointment.</b></p> <p>That Cabinet:</p> <ol style="list-style-type: none"> <li>1. Approves entering into the JCT D&amp;B contract with Bugler Developments Ltd for the delivery of 32 homes at the Marchmont Fields development.</li> <li>2. Delegates authority to the Assistant Director (Legal &amp; Democratic Services) to execute and complete all legal agreements ancillary to the JCT Design &amp; Build Contract 2016 and/or reasonably required to complete the Project, including (but not limited to): <ol style="list-style-type: none"> <li>a. all professional appointments;</li> <li>b. collateral warranties; and</li> <li>c. Agreements under</li> </ol> </li> </ol>

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<p><b>Period for post policy/project review:</b></p>	<p>There will be a 12-month defect liability period after practical completion. A 2-year review period is therefore recommended for this project.</p>

## 1. Introduction/Background:

- 1.1 Since 2013, the Council has delivered 356 new Council homes in the Borough, providing a good record of delivering new homes for social rent.
- 1.2 The Marchmont Fields site is located to the south of the existing Grovehill Estate in north Hemel Hempstead and abuts the northern edge of the Marchmont Farm development being promoted by Homes England under the LA1 Masterplan. The application land parcel is self-contained and fully within the ownership of Dacorum Borough Council. It has pedestrian access from both Laidon Square to the north and Piccotts End Lane to the east, forming an extension to the established community at Grovehill.
- 1.3 Based upon the brief, and assessment of the site, the project will deliver the following amount of accommodation.

2 x 3 bed 5 person wheelchair unit houses at 147m<sup>2</sup>  
4 x 3 bed 5 person houses at 101m<sup>2</sup>  
8 x 2 bed 4 person houses at 84m<sup>2</sup>  
3 x 2 bed 4 person wheelchair unit flats at 83m<sup>2</sup>  
6 x 2 bed 4 person flats at 73m<sup>2</sup>  
9 x 1 bed 2 person flats at 54-56m<sup>2</sup>  
**Total 32 homes**

All the units are to be delivered as social rented homes.

## 2. Proposals:

### Principal Contractor Appointment

- 2.1 The proposal put forward is to enter into the JCT D&B contract with Bugler Developments Ltd for the delivery of 32 homes at the Marchmont Fields Development.

### Programme

- 2.2 The programme for the development of the scheme is:

- Planning approval at Committee – November 2022
- Site possession – November 2023
- Works start on site – December 2023
- Practical completion – November 2025

## 3. Consultation:

A list of internal Dacorum Borough Council consultees for this decision are as follows:

- Portfolio Holder for Housing
- Chief Housing Officer
- Chief Finance Officer
- Assistant Director – Legal and Democratic Services
- Assistant Director – Strategic Housing and Delivery
- Procurement Lead Officer, Commissioning, Procurement & Compliance

## 4. Financial and value for money implications:

- 4.1 The overall HRA development budget is reviewed strategically as part of the annual review of the Housing Revenue Account Business Plan. Each individual scheme,

following contract award, is subject to close financial monitoring with any variances agreed formally through a change control methodology.

- 4.2 The lifting of the HRA borrowing cap has provided the opportunity to take out additional borrowing, through the Public Works Loan Board, enabling the expansion of the new build programme in a sustainable and affordable way.
- 4.3 This has been achieved through a successful procurement programme involving an open tender process managed by the Council's Procurement Team.
- 4.4 Land purchases / appropriations are in line with Red Book valuations to ensure value for money. Cabinet agreed to the transfer of the site from the General Fund into the Housing Revenue Account (HRA) on the 21<sup>st</sup> September 2021 for a figure in accordance with the Red Book valuation completed by Brasier Freeth in 2020.
- 4.5 Full financial appraisals are undertaken prior to contract award, including financial analysis of recently published accounts. An assessment of the bidder's financial standing was carried out by the Council's Finance Department based on the bidders' set of accounts in the last 3 financial years and a credit reference report. The recommended successful bidder passed this financial evaluation.
- 4.6 The Council also uses external financial analysis services from Dun and Bradstreet to help assess risk and creditworthiness associated with contractors. Updates on the financial status of key contractors are submitted regularly.

## **5. Implications:**

- 5.1 The award of contract has followed a regulated and competitive procurement process to evidence that the Council will obtain value for money for the contract award.

### Land Appropriation

- 5.2 Cabinet authorised the appropriation of the land for planning purposes by its decision dated 21<sup>st</sup> September 2021.
- 5.3 Section 203 of the Housing and Planning Act 2016 ("2016 Act") provides that, where land has been appropriated for planning purposes, then existing rights, which could prevent the development of that land from being carried out in accordance with the planning permission can be overridden, Any third party claiming the benefit of a third party right is prevented from taking injunctive action against the Council thus preventing development. There remains however a right to compensation for loss of the right, calculated in accordance with the statutory compensation code based on the diminution in value of the land affected as a result of the loss or injury to the third party.
- 5.4 The use of section 203 powers would have the effect of ensuring that previously unknown interests do not frustrate the process of development, and is considered necessary in order to facilitate the proposed scheme of development.
- 5.5 The Site will not be appropriated for planning purposes until:
  - i. the outcome of the advertisement process required by section 122(2A) of the Local Government Act has been completed and any representations received have been properly considered

## **6. Risk implications:**

A risk assessment has been completed for this project by the Project Manager and Employer's Agent which will be reviewed monthly from the award of contract.

## **7. Equalities, Community Impact and Human Rights:**

- 7.1 A Community Impact Assessment has been completed – See Appendix C. There are no detrimental impacts.
- 7.2 These proposals will have a beneficial impact on low income households. Homes are developed and allocated in line with the demand for social housing and are let in accordance with the Council's Housing Allocation Policy to those households in greatest need. Improved community facilities being built as part of these plans will also have a positive impact.
- 7.3 There are no Human Rights implications arising from this report.

## **8. Sustainability implications (including climate change, health and wellbeing, community safety):**

- 8.1 The scheme has been designed with consideration to secured by design standards, and it incorporates high energy efficiency and sustainability features. The construction specification has been produced to significantly exceed building regulation requirements for environmental standards.
- 8.2 The Core Sustainable Development Strategies for Marchmont Fields are:
- To promote healthy and sustainable communities and a high quality of life.
  - To mitigate and adapt to the impacts of climate change.
  - To promote social inclusion and cohesiveness, embrace diversity and reduce inequalities
  - To create safe and attractive environments through high quality design

## **9. Council infrastructure (including Health and Safety, HR/OD, assets and other resources):**

Each new build scheme has in place a Principal Designer and Construction Design and Management Regulations (CDM) Advisor. Contractors are required to comply with the Council's Health and Safety (H&S) Policy along with Considerate Constructors requirements. Health & Safety is identified as a key risk of the Housing Service and is reported to the Council's Housing and Communities Overview and Scrutiny Committee on a quarterly basis. To ensure compliance, monthly site checks are carried out on behalf of the Council to ensure adherence to H&S procedures.

## **10. Statutory Comments**

### **Monitoring Officer:**

The Council holds the statutory powers of appropriation under Section 122 of the Local Government Act 1972 and section 203 of the Housing and Planning Act 2016. By Section 204 of the Housing and Planning Act 2016 the local authority is liable to pay compensation, in accordance with the statutory provisions, in respect of the interference of rights affected by the carrying out of building or maintenance works. The proposals contained in this report are consistent with the exercise of the above mentioned statutory powers of the Council. It is considered that the exercise by the Council of its statutory powers of appropriation in the circumstances referred to in this report is reasonable and proportionate

### **Deputy S151 Officer:**

The award of contract has followed a competitive procurement process to secure value for money.

## **11. Conclusions & Recommendations**

### Appointment of Principal Contractor

- 11.1 The recommendation is that the Cabinet gives approval to enter into the JCT Design & Build contract with Bugler Developments Ltd for the delivery of 32 homes at the Marchmont Fields Development.
- 11.2 The procurement of land at Marchmont is contained within the agreed development budget agreed as part of the HRA business plan and is reviewed annually as part of the HRA budget setting process.