



<b>Report for:</b>	Cabinet
<b>Title of report:</b>	<b>Appointment of Principal Contractor for Paradise Depot, Hemel Hempstead</b>
<b>Date:</b>	19 <sup>th</sup> November 2024
<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>	Procurement report contains commercially sensitive information.
<b>Appendices:</b>	<b>Appendix A</b> – Community Impact Assessment <b>Appendix B</b> – Proposed Site Plan
<b>Background papers:</b>	
<b>Glossary of acronyms and any other abbreviations used in this report:</b>	GF – General Fund HRA – Housing Revenue Account ITT – Invitation to Tender JCT – Joint Contracts Tribunal D&B – Design & Build EA – Employers Agent

## Report Author

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## Responsible Officer

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<p><b>Corporate Priorities</b></p>	<p>Community Engagement  Service Improvement and Delivery  Vibrant Communities  Sustainable Future  Clean, Safe and Green  Homes to be Proud of  Proud and Thriving Borough</p>
<p><b>Wards affected</b></p>	<p>Hemel Hempstead Town</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 a JCT Design &amp; Build 2016 Contract with Bugler Developments Ltd for the delivery of 56 units and a standalone commercial building at The Hub (Paradise Depot), Hemel Hempstead. This contract will require Bugler Developments Ltd to complete the previously started construction of the block of flats and commercial building that was halted due to the previous contractor ARJ Construction Ltd going into Administration.</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.</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 Design &amp; Build Contract with Bugler Developments Ltd for the delivery of 56 units and a standalone commercial building at The Hub (Paradise Depot), Hemel Hempstead.</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 S.38, &amp; S.278, of the Highways Act 1980; S.247, Part III of the Town and Country Planning Act 1990; S.104 of the Water Industry Act 1991, and S.50 of the New Roads and Street Works Act 1991.</li> </ol> </li> </ol>

**Period for post  
policy/project review:**

There will be a 12-month defect liability period after practical completion. A 2-year review period is therefore recommended for this project.

## 1. Introduction/Background:

- 1.1. Paradise Depot is situated on Paradise Industrial Estate, approximately 0.2km to the east of Hemel Hempstead town centre. Planning permission was granted in March 2023 to construct a new residential building, providing 56 apartments for social rent, and a standalone commercial unit for Dacorum Emergency Night Shelter (DENS).
- 1.2. In October 2022, an Invitation to Tender (ITT) was advertised on the Supply Hertfordshire Portal to find a Principal Contractor for the project. Four submissions were received in January 2023 and evaluated in line with the Council's scoring methodology. The highest scoring bid was submitted by ARJ Construction Ltd.
- 1.3. Cabinet approved the recommendation to appoint ARJ Construction Ltd (ARJ) as the Principal Contractor in April 2023. Following this decision, the Council entered into contract with ARJ on 7<sup>th</sup> July 2023 to construct the approved development at Paradise Depot. Construction works commenced in November 2023.
- 1.4. On 30<sup>th</sup> April 2024, the Council was officially notified that ARJ Construction Ltd had ceased trading and had entered administration. Up until this date, ARJ had completed a significant proportion of the design work, demolished all existing buildings on site and were in the process of completing piling and foundation works for both the residential and commercial buildings.
- 1.5. The Housing Development Team was notified the day before, (29<sup>th</sup> April 2024), that all ARJ personnel had vacated site in the morning. The immediate reaction was to ensure the site was safe and secure, which has been achieved with the assistance of the professional team and Bugler Developments (Bugler). The site was back in the possession of the Council on 30<sup>th</sup> April 2024.

## 2. Proposals:

- 2.1. On 28<sup>th</sup> May 2024, the Council's Commercial Board agreed that negotiations with the next available highest scoring contractor could commence, in this case Bugler Developments Ltd, from the original tender process in 2022. Any negotiated build cost would be evaluated against the original tender and current market conditions as an open book to test and ensure the Council are achieving the most economically advantageous price.
- 2.2. This decision to commence negotiations was subject to obtaining a Portfolio Holder decision to set aside the Procurement Standing Orders so that there is no need to undertake a new tendering process, and publishing a Voluntary Ex-Ante Transparency (VEAT) notice to the market informing them of the intention to award a contract directly to the next available contractor from the original tender, both of which were successfully completed in August/September 2024.
- 2.3. Bugler have reviewed the existing design and as-built works to provide a negotiated bid based on comparison of works completed, uplifted costs through Building Cost Information Services Construction Data (BCIS) rates, value engineering and rationalisation of provisional sums to achieve a competitive bid.
- 2.4. An internal benchmarking exercise completed by BPM Project Management (BPM), the Council's Employers Agent, against similar projects shows the proposed cost per square meter is lower than comparable schemes and reflects current market conditions for a medium sized mixed-use development in this region. Given the scope of the remaining works and current market conditions, their proposed contract sum is deemed reasonable and value for money.

- 2.5. Based on the above, the recommendation is to enter into contract with Bugler Developments Ltd to complete the approved scheme of 56 flats and a standalone commercial building at Paradise Depot. Bugler have submitted a competitive negotiated bid that offers value for money, and they also have strong track record of delivering large-scale social housing projects for Developers in Dacorum, including the Council.

#### Programme

- **Site Possession (Bugler)** – February 2025
- **Start on Site** – March 2025
- **Practical Completion** – January 2027

### 3. **Consultation:**

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

- Portfolio Holder for Housing & Property Services
- Strategic Director, Housing and Property Services
- Chief Finance Officer
- Assistant Director – Legal and Democratic Services
- Assistant Director – Strategic Housing & Delivery
- Head of Investment & Delivery
- Head of Commercial Development

### 4. **Financial and value for money implications:**

- 4.1. The HRA build will generate income of approximately £390,000 per annum meaning a payback of approximately 41 years on the direct borrowing costs to the HRA.
- 4.2. As part of financial due diligence, a financial assessment is undertaken for the proposed contractors. This work involves analysis from the contractors' financial statements to assess financial indicators and then the outcome is scored. The analysis considers not only the last financial year's financial position but consider the last 3 years to understand any significant financial changes for the proposed contractor.
- 4.3. The Council also receives regular reports on the financial position of its key contractors from Dun and Bradstreet and alerts when the position of any of these contractors is considered to have worsened. Updates on the financial status of key contractors, including Bugler, are submitted regularly. This information considers future projections for the contractor. This has been the approach and has been successful for several years. The failure of 2 significant contractors in the last 18 months is symptomatic of the sector currently and whilst the Council reviews the data regularly, future failure of any contractor cannot be ruled out.
- 4.4. Full financial appraisals are undertaken prior to contract award, including financial analysis of recently published accounts. An assessment of Bugler's financial standing was carried out by the Council's Finance Department and no concerns were identified. The Council also uses external financial analysis services from Altair Consultancy & Advisory Services Ltd to help assess risk and creditworthiness associated with contractors.
- 4.5. 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 being agreed formally through a change control methodology.
- 4.6. The Budget requirements for this project are outlined below:

<b>Budget Requirements</b>	<b>HRA</b>	<b>General Fund</b>	<b>Total</b>
Capital	£24,465,563	£3,245,572	£27,711,135
Revenue	£50,000		£50,000
	<b>£24,515,563</b>	<b>£3,245,572</b>	<b>£27,761,135</b>

This will be funded by:

<b>Funded By</b>	<b>HRA</b>	<b>General Fund</b>
Homes England Grant	£7,100,000	
Bond	£1,670,000	
Capital Receipts		£2,500,000
Borrowing	£15,745,563	£745,572
	<b>£24,515,563</b>	<b>£3,245,572</b>

- 4.7. Full financial appraisals are undertaken prior to contract award, including financial analysis of recently published accounts. An assessment of Bugler's financial standing was carried out by the Council's Finance Department and no concerns were identified. The Council also uses external financial analysis services from Altair Consultancy & Advisory Services Ltd to help assess risk and creditworthiness associated with contractors. Updates on the financial status of key contractors, including Bugler, are submitted regularly.
- 4.8. The negotiated bid submitted by Bugler demonstrates strong value for money, particularly in light of the project's scope and current market conditions. Bugler have carefully reviewed the scheme design and as-built works, employing value engineering techniques and rationalisation of provisional sums to optimise costs.
- 4.9. Bugler's extensive experience in delivering large-scale housing developments in this region further reinforces the value proposition of their bid. Their familiarity with the local market and similar projects enables them to offer a competitive and realistic proposal, balancing quality with cost-effectiveness.
- 4.10. The internal benchmarking exercise against similar ongoing projects confirms the cost per square meter for this project would be lower than comparable developments. This indicates that Bugler's bid accurately reflects the prevailing market conditions, providing the Council with confidence that the negotiated sum represents a fair a competitive offer.

## 5. Options

There are two options for Cabinet to consider: -

- 5.1 Approve the appointment of Bugler Development Limited as main contractor to complete the construction works and deliver the project as specified in this report.
- 5.2 Mothball the site and include within the Council's Strategic Asset review – this would delay the delivery of 56 much needed social rented homes and the new DENS headquarters building. The Council would be required to repay the £5,334,432 Homes England grant already received.

## 6 Implications:

- 6.1 The negotiations which led to the recommendation of the award of this contract were subject to a Portfolio Holder decision to set aside the Procurement Standing Orders so that there is no need to undertake a new tendering process, and publishing a Voluntary Ex-Ante Transparency (VEAT) notice to the market informing them of the intention to award a

contract directly to the next available contractor from the original tender, both of which were successfully completed in August/September 2024.

- 6.2 Following the demise of ARJ Construction Ltd, the negotiated route presented an opportunity to achieve the most economically advantageous scheme by bringing forward a new Contractor in the shortest time frame. This option would also retain the Homes England funding and satisfy the Council's commitment to providing a new commercial facility for DENS.

## **7 Risk implications:**

- 7.1 The most significant risk to the Council is the loss of the Homes England funding that has already been allocated to this project. Should the approved scheme not be delivered, it is likely that the funds already received would have to be returned to Homes England. The project was due to be completed before the end of Homes England's current funding programme (31<sup>st</sup> March 2026) but discussions with Homes England suggest they would be willing to support an extension of time if the project could be restarted within the next 6 months.
- 7.2 The Council has also committed to providing a new facility for DENS, a local homeless charity supporting vulnerable people in Dacorum. DENS previously used the site to operate a foodbank and was temporarily relocated to Dacre House in the town centre in 2022 until the new facility was completed as part of this development. Their new flagship HQ presented an opportunity to improve and expand their current services that would provide benefits to both their clients and the wider community which include a larger foodbank facility, a community café and office/training rooms for DENS staff. The Council could incur reputational damage should the new facility not be delivered as part of this development.
- 7.3 From a build perspective, there are inherent risks associated with a project of this nature where works have been progressed by one contractor and completed by another. There is a robust risk management process in place for this project and the Housing Development Team, alongside the Employer's Agent, will review risks regularly with Bugler through regular risk workshops and monthly progress meetings to mitigate any potential challenges.

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

- 8.1 A Community Impact Assessment has been completed – See Appendix A. No detrimental impacts have been identified.
- 8.2 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 with the new DENS HQ will also have a positive impact on the residents. There are no Human Rights implications arising from this report.

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

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.

## **10. 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 for 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.

## **11. Statutory Comments**

### **Monitoring Officer:**

The procurement process followed for this proposed contract award is set out in the report. A VEAT notice has been published to inform the market of the proposed award and no challenges have been received within the challenge period of 10 days. The Council may therefore proceed to award the contract.

### **S151 Officer:**

The financial appraisal undertaken for this project outlines that the project is modelled to pay back the cost of the development within the existing useful life of the asset, representing good value for money for the HRA. The bidding and award of external grant funding, totalling in excess of 25% of the development costs, is the key to the financial sustainability of the project and without external funding this project would not be sustainable.

## **12. Conclusions & Recommendations**

12.1 The negotiated bid submitted by Bugler Developments Ltd demonstrates strong value for money particularly in light of the project scope and market conditions. Their extensive experience with large-scale housing development in this region ensures a competitive and realistic proposal that balances both quality and cost effectiveness. In addition, the benchmarking exercise completed against other schemes further underscores that the negotiated sum represents a fair and competitive offer.

12.2 The recommendation is that Cabinet gives approval to enter into the JCT Design & Build contract with Bugler Developments Ltd for the delivery of 56 units and a standalone commercial unit at The Hub (Paradise Depot), Hemel Hempstead.