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**Decision Maker:** **WITH PRE DECISION SCRUTINY BY RENEWAL, RECREATION AND HOUSING POLICY, DEVELOPMENT & SCRUTINITY COMMITTEE ON 26 JANUARY 2022**

**EXECUTIVE**

**Date:** 27 JANUARY 2022

**Decision Type:** Urgent EXECUTIVE Non-Key

**Title:** **AFFORDABLE HOUSING DEVELOPMENT PROJECT AT YORK RISE, ORPINGTON**

**Contact Officer:** Alicia Munday, Head of Regeneration, Housing, Planning & Regeneration  
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**Chief Officer:** Director of Housing, Planning, Property and Regeneration

**Ward:** Farnborough and Crofton;

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**1. Reason for report**

- 1.1 To provide an update on scheme funding in relation to York Rise, including increased funding from the Greater London Authority (GLA). This will enable MAR Ltd, the appointed design and build contractor to proceed with the construction of 35 affordable homes at York Rise, Orpington, BR6 8PR. The scheme was granted planning permission at the December 2021 Development Control Committee. The Chairman of ERC PDS has given consent for this report to be taken under Budget and Policy Framework Procedure Rules - Rule 4 of the Urgency Procedure, given the significance in additional funding plus the importance of affordable housing at this critical time.

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**2. RECOMMENDATION(S)**

**The Renewal, Recreation and Housing PDS Committee are asked to:**

- 2.1 Note and comment on the content of the report.

**The Executive is requested to:**

- 2.2 Note the progress of the project as set out within this report.
- 2.3 Approve, a supplementary capital estimate of £3,174k. as set out in the Accompanying Part 2 Report, under the Budget and Policy Framework Procedure Rule 4 of the Urgency procedure

- 2.4 Approve the revised financing of the scheme as set out in paragraph 8.5, noting that there is no change to the internal loan of £6,064k from the General Fund to the Housing Revenue Account.
- 2.5 Note that the land appropriation value has been set by independent valuation at £390k.
- 2.6 Approve the utilisation of a further £314,080.89 Section 106 contributions.
- 2.7 Approve the varied Contract Award to Module-AR (as originally set out in report No HPR2021/032 B, 30<sup>th</sup> June 2021) as detailed in the accompanying Part 2 report, for the Design and Build contract using the LHC NH2 Framework
- 2.8 Grant delegated authority to the Director of Renewal, Recreation and Housing to proceed to procure and/ or contract award for additional consultancy services as required to bring about completion of this scheme, provided they are allowed for within the financial budget and subject to Agreement as required through the Councils Contract Procedure Rules with the Portfolio Holder for Recreation, Renewal & Housing, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance.
- 2.9 Delegate Authority to the Director of Corporate Services to authorise and any legal measures needed to develop the scheme
- 2.10 Approve the revised financing of the scheme as set out in paragraph 8.5, noting that there is no change to the internal loan of £6,064k from the General Fund to the Housing Revenue Account.

## Impact on Vulnerable Adults and Children

1. Summary of Impact:
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### Corporate Policy

1. Policy Status: Not Applicable Existing Policy New Policy: Further Details
  2. BBB Priority: Children and Young People Excellent Council Quality Environment Safe Bromley Supporting Independence Vibrant, Thriving Town Centres Healthy Bromley Regeneration Not Applicable: Further Details
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### Financial

1. Cost of proposal: Estimated Cost £11.2m
  2. Ongoing Costs: estimated Revenue Savings of £224k per annum
  3. Budget head/performance centre: Capital Programme
  4. Total current budget for this head: £8.1m
  5. Source of funding: Capital Programme, Affordable Housing Section 106 contributions, and GLA Grant Funding.
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### Personnel

1. Number of staff (current and additional): Existing resource
  2. If from existing staff resources, number of staff hours:
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### Legal

1. Legal Requirement: None. Statutory Requirement Non-Statutory - Government Guidance None:
  2. Call-in: Applicable Not Applicable: Further Details
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### Procurement

1. Summary of Procurement Implications:
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No, given the urgency of this decision this has not been possible, but Ward Cllrs have previously been provided with details and updates on the scheme
2. Summary of Ward Councillors comments:

### 3.0 BACKGROUND

- 3.1. The York Rise site is a vacant site owned by the Council and identified in the Local Plan for 35 dwellings (site Allocation 12). Various attempts over many years to bring this site to development, including considering sale of the land have not been successful. The Regeneration Team secured funding for this capital scheme (Report No HPR2021/032) in June 2021, and in December 2021, secured Planning permission for the development.
- 3.2. Since consideration of the funding report in June 2021, the Council has now received the detailed appraisal for the land appropriation fee for the site as well as detailed construction costs, which have included further works for drainage attenuation and archaeological works ahead of the design and build construction works, The construction fees reflect the rise in costs officers expected which have been seen across the sector largely as a result of shortage of supplies and labour as a consequence of the Covid Pandemic – in some areas they have seen this rise by more than 35%. In addition, there have been further planning conditions on the scheme, notably because of its complex location, ecological impact, as well as the potential for archaeological findings in the ground. Given the increase in costs, the need for a greater contingency to safeguard the Council and the development, officers approached the GLA for consideration of further grant funding and have successfully secured a further £1m of grant funding, if the site can commence works by 31 March 2022. In order to make use of this additional funding, the Executive and Full Council approval is required to add this to Capital Programme,
- 3.3. This report requests Executive authority to progress the scheme on the basis of the revised project budget of **£11,635,963**, utilising the additional GLA Grant Funding and Section 106 contributions. This will enable the Council to deliver the 35 affordable homes. The revised cost to the Council (internal loan from the General Fund to the Housing Revenue Account) has not increased beyond the previously agreed sum of £6,064,000.
- 3.4. This report has been marked as Urgent, as in order to secure the additional capital funding from the GLA, works have to commence on site by the end of March 2022. In order to do this, the Council will need to enter into the approved contract with the contractor as soon as possible.

### 4.0. ADDITIONAL SOURCES OF FUNDING

- 4.1. The additional sources of funding identified will help to address the following:
- 4.2. **Further investigative works to address site abnormalities– air raid shelters, archaeological works, proximity to a scheduled ancient monument.** These site abnormalities were identified in the 2019 earlier feasibility work, however further intrusive Phase 2 groundworks have been undertaken which have identified the ground conditions, pilings and works to remediate the site. Additionally, the project team are aware of the site being within a priority area but having now consulted with Historic England the extent of works required have now been confirmed. This includes incorporating an Archaeological Watching Brief as part of further groundworks which has additional cost implications.
- 4.3 **Construction and repairs of large retaining walls-** These have been required due to planning requirements as keeping the finished floor levels of the building as low as possible to avoid over shadowing and privacy encroachment to surrounding neighbours. Additional drainage attenuation for the site was requested by Thames Water to limit surface water discharge away from the site and also a requirement for a substation to eliminate the use of gas which will meet the new Local Plan requirements for lift accessibility and greening factors.
- 4.4 **Significant increase in construction and material costs** due to current condition of the market i.e., steel work, timber, shippage costs, materials. These costs are linked to industry

shortages due to the covid-19 pandemic but also the consequences following Brexit. Overall there has been circa 35% increases in some of these areas. The Project Team are now working with a detailed cost plan which is reflective of the market, however quotes received to date do need to be acted upon swiftly in order to secure those quotes at those prices.

- 4.5 **Ground contamination-** following the phase 2 site investigations, these surveys have highlighted a number of ground contaminants. A remediation strategy is required to deal with these existing materials.
- 4.6 **Additional GLA Grant** – the GLA who are prioritising affordable house building, have agreed a negotiated funding route, increasing their allocation to this site from £3.5m to £4.5m to support Bromley's development programme.
- 4.7. The additional funding will be used to address the above constraints and bring forward this site for development. The work undertaken to date is far more detailed and now encompasses these abnormalities, rectifying measures and avenues to bring forward the development within a suitable timescale.
- 4.8 Subject to approval of the additional Capital funding, the works contract for the Design & Build of the development will be varied to accommodate the identified additional works. A contract was entered into with Module-AR following mini competition from a compliant framework. The contract was a two stage contract with the first stage being the Pre Commencement Services Agreement with the second stage being Design & Build, subject planning permission. In June 2021 Executive, the service obtained authorisation to enter into the Design and Build stage of the contract. As per recommendation 2.7 and detailed in the accompanying Part 2 report, authorisation is sought to vary the value of the Design & Build contract to reflect updated construction costs.
- 4.9 In addition, as per recommendation 2.8, delegated authority is sought to the Chief Officer to enter into additional contracts as required to bring about completion of the scheme (but within the approved financial envelope). Experience shows that, for projects of this type, additional requirements may be identified at short notice that may require additional specialist services such as consultancy or specialist works. As per 11.4, a suitable compliant procurement route will be determined for any such requirements. Although it is expected that any such requirements may be within existing Chief Officer authority, delegated authority is sought to ensure no time is lost where requirements exceed the relevant thresholds.

## **5.0 LAND APPROPRIATION**

- 5.1 The land following Appropriation will be transferred to and administered from the General Fund Account to be administered under the Housing Revenue Account (HRA). Once the development has been completed the land will be appropriated as housing land.
- 5.2 The land appropriation value included in previous reports was an internal estimate only, which is now considered to be too high when compared to external valuations for similar Council schemes. Now planning permission has been granted, and the scheme has been agreed, an independent valuation has now been carried out, and this is set at £390k for this scheme.

## **6.0. IMPACT ON VULNERABLE ADULTS AND CHILDREN**

- 6.1. The proposal will deliver homes for those in temporary accommodation, supporting vulnerable adults and children in the community.

## **7.0. POLICY IMPLICATIONS**

- 7.1. The proposal will deliver affordable housing to meet the Council's wider temporary accommodation needs.

## 8.0. FINANCIAL IMPLICATIONS

- 8.1. At its meeting in July 2019 in considering the award of the now terminated contract the Executive agreed the addition of the scheme to the Capital Programme with an estimated value of £6m, funded by £2.5m from the Housing Investment Fund and £3.5m from the Investment Fund earmarked reserves.
- 8.2 In June 2021 Members agreed a supplementary capital estimate of £2.1m to a total of £8.1m based on the estimated scheme costs at the time, and revised financing for the scheme on the basis that the properties would be held within the Housing Revenue Accounts (HRA) and let at London Affordable Rent levels.
- 8.3 This report requests a supplementary capital estimate of £3.2m to a total of £11.2m based on the revised estimated scheme costs. Further details of this are set out in the Part 2 Report.
- 8.4 It should be noted that by appropriating the land into the HRA, the market value of the land is charged to the HRA. Although this is not an actual capital receipt, it does mean that the General Fund can incur more capital expenditure without needing to borrow through an adjustment to the Capital Financing Requirement. The land appropriation has been independently valued at £390k.
- 8.5 It is proposed that the revised scheme (including the land appropriation value) will be financed as follows:

	<b>Previous</b>	<b>Proposed</b>	<b>Variation</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Revised capital scheme cost	8,072	11,246	3,174
Land appropriation value	2,250	390	-1,860
	<b>10,322</b>	<b>11,636</b>	<b>1,314</b>
Financed by:			
GLA grant	3,500	4,500	1,000
Section 106 contributions	758	1,072	314
Internal borrowing	6,064	6,064	0
	<b>10,322</b>	<b>11,636</b>	<b>1,314</b>

- 8.6 As the increase in costs has been partly offset by a reduction in land value, additional grant financing from the GLA and Section 106 contributions, there is no change to the internal borrowing requirement, which means there is no impact on the financial viability of the scheme within the HRA or estimated revenue savings to the General Fund of £224k per annum.
- 8.7 By developing the site for affordable housing, the Council is foregoing a capital receipt that could be realised by disposing of the site. At present, it is estimated that this could be around £1.75m. However, it should be noted that ceasing the development would result in the abortive capital costs to date of around £550k being charged to revenue.
- 8.8 If the site was disposed, then it would likely generate ongoing savings from nominations to up to 10 units, and the £1.1m s106 contributions allocated for the development scheme could instead be used to purchase around 3 units. The table below provides a summary of the revenue and capital impacts to the General Fund, and Net Present Values over 5, 15 and 40 years comparing the proposed development option, disposal of the site, and disposal with the proceeds being used to acquire an estimated further 6 properties:

	Development £'000	Disposal £'000	Disposal and acquisition £'000
<u>Revenue impact</u>			
Temporary accommodation savings p.a.	-224	-79	-117
Abortive costs charged to revenue (one-off)		550	550
<u>Capital impact</u>			
Capital receipt/land appropriation adjustment	-390	-1,750	-1,750
User of capital receipt for c.6 acquisitions			1,750
<u>Net Present Values:</u>			
5 years	-1,390	-1,415	101
15 years	-3,111	-2,033	-803
40 years	-5,951	-3,084	-2,399
<u>Assumptions</u>			
Discount rate	3.50%		
CPI increase	2.00%		
TA savings increase	1.00%		
Internal loan period	40 years		
Internal loan rate	2.16%		

- 8.9 As can be seen from the table above, the higher level of ongoing temporary accommodation savings from the development option provides the greatest benefit to the Council over the longer term compared to disposing of the site (the Net Present Value becomes higher than that of the disposal option at 6 years).

## 9.0. PERSONNEL IMPLICATIONS

- 9.1. There is adequate resource to procure and lead the development of the scheme. The Council, has procured the requisite specialist contractors to deliver the Design and Build contract as well as other professional services

## 10.0. LEGAL IMPLICATIONS

- 10.1 In relation to the affordable housing development project at York Rise, Orpington this Report is seeking authority of the Executive to approve an additional i) capital budget under the Budget and Policy Framework Procedure Rules Rule 4 of the Urgency Procedure ii) contract award sum and iii) grant from the GLA for developing Affordable Housing in relation to the Building Council Homes for Londoners Programme Grant Agreement.

- 10.2 The Chief Finance officer has been consulted as required under the Constitution and is satisfied that the decision to increase the Capital Programme by the additional capital is outside the Councils Approved Budget. As the additional capital sum exceeds £1M, in order to make the change to the Council's Capital Budget, the Councils Financial Regulations requires the Executive to approve the change and to refer the same to Full Council to seek the approval of Full Council.

- 10.3 The report has explained the reasons why the Project costs have increased and the reasons why the decision to approve the increase in the Council Capital Budget is needed. In particular the report has explained the circumstances surrounding the conditionality of the additional grant promised by GLA, namely the material commencement of the works by a certain milestone date. Officers therefore consider it sensible that the decision to approve the increased Capital Budget, ordinarily required by Full Council, can be taken by the Executive under the Budget and Policy Framework Procedure Rules 4 of the Urgency Procedure.

- 10.4 The Executive had approved the award of the works contract of last year, and the recommendations to this report now seek approval of the Executive to the increased Contract sum in compliance with the Councils Contract Procedure Rules.
- 10.5 By adopting this course of decision-making and if approved, it is considered that the Council will be able to enter into the Works Contract with the Successful Contractor for the changed Contract sum which will satisfy the conditions as to commencement of the work required by the GLA under the Grant Agreement which would attract the additional grant. Officers have undertaken all due diligence on the increased costs and overall financial position for both the HRA and the General Fund, and on balance recommend to proceed as set out in this report.
- 10.6 Whilst it is acknowledged that all Grant Agreements impose terms and conditions and obligations on the Grant recipient, the Council will nevertheless need to adhere and comply with all the GLA requirements accordingly. The terms and conditions of this GLA Grant with the proposed additional increase in the grant sum would appear to be manageable and not unduly onerous. It is important to understand how the grant terms and conditions and processes operate including the Affordable Housing Capital Funding Guide. The legal department is to be contacted with any specific issues that are not clear and for any clarification sought.

## **11.0. PROCUREMENT IMPLICATIONS**

- 11.1. A contract was entered into with Module-AR following mini competition from a compliant framework. The contract was a two-stage contract with the first stage being the Pre Commencement Services Agreement with the second stage being Design & Build, subject planning permission. In June 2021 Executive, the service sought authorisation to enter into the Design and Build stage of the contract. This report is seeking authorisation to vary the value of the Design & Build contract to reflect updated construction costs.
- 11.2 The report also seeks delegated authority to proceed to procurement and make award of contract for any ancillary contracts, such as consultancy services, required to bring about completion of the scheme.
- 11.3 A variation of the value proposed appears to be within Regulation 72 (b) and (c) of the Public Contracts Regulations 2015 where additional works are required / could not have been foreseen and where the increase in price does not exceed 50% of the original contract.
- 11.4 The report does not identify any specific ancillary contracts. The service should consult with the Corporate Procurement Team to determine the suitable procurement route as requirements are identified (including suitable Notices) as well as the relevant governance arrangements subject to the delegated authority requested.

<b>Non-Applicable Sections:</b>	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	Report No. HPR2021/032



## APPENDIX 1

### Architects CGIs of Proposed Schemes

