

<b>Cabinet Meeting</b>	
<b>Meeting Date</b>	25 <sup>th</sup> September 2019
<b>Report Title</b>	Fourth Deed of Variation to the Development Agreement between the Council and Spirit of Sittingbourne
<b>Cabinet Member</b>	Cllr Monique Bonney, Cabinet Member for Economy and Property
<b>SMT Lead</b>	Emma Wiggins Director of Regeneration
<b>Head of Service</b>	Charlotte Hudson Head of Housing, Economy and Community Services
<b>Lead Officer</b>	Peter Binnie Sittingbourne Town Centre Senior Project Advisor.
<b>Key Decision</b>	No
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	1. That Cabinet delegates authority to the Director of Regeneration to agree a fourth Deed of Variation to the Development Agreement between the Council and Spirit of Sittingbourne to extend the long stop date for the drawdown of land to the residential elements of Phase 1 of the Development Agreement

## **1 Purpose of Report and Executive Summary**

- 1.1 This report provides the background and relevant information to request delegated authority to the Director of Regeneration in consultation with the Leader and Cabinet Member for Economy and Property to agree a Fourth Variation to the Development Agreement entered into between the Council and Spirit of Sittingbourne on 19<sup>th</sup> September 2012 and subsequently varied by the First Deed of Variation and Second Deed of Variation both dated 20<sup>th</sup> January 2015 and the Third Deed of Variation dated 28<sup>th</sup> June 2017.
- 1.2 The variation relates to the long stop date for the next phase of the project which is a residential development on the Cockleshell Walk and Spring Street car parks and in Fountain Street. These are sites currently owned by the Council.

## **2 Background**

- 2.1 The Development Agreement between the Council and Spirit of Sittingbourne allows for the construction of 212 residential units on Cockleshell Walk, Spring Street and Fountain street.
- 2.2 The Development Agreement contains several conditions and longstop dates for the Development Agreement between the Council and Spirit of Sittingbourne that is to be delivered in two distinct phases, Phase 1 and Phase 2. Phase 1

comprised significant roadworks and infrastructure that are substantially complete, a retail park that is complete and open to business, a Multi Storey Car Park that is complete, a Cinema, Hotel and public open space that will be completed by the end of the year and the three residential site that have not yet started.

- 2.3 Considering the Coalition’s priorities, particularly in relation to affordable housing Officers engaged with Spirit of Sittingbourne to consider ways in which the residential phase could be substantially revised. These discussions are ongoing and as a result Spirit could not meet the timescale for the satisfaction of the Viability Condition and the Council’s Funding Condition. In order continue discussions Spirit of Sittingbourne has requested a 3-month extension to the Longstop Date for drawdown of the Building Leases to the three residential sites. In undertaking discussions intended to achieve better outcomes the Council has to act “reasonably” which is why the request for the extension of the long stop date is made.

### **3 Proposals**

- 3.1 It is proposed to extend the Longstop Date for draw down of the Building Leases to sites 1,2 and 3 in the Development Agreement between the Council and Spirit of Sittingbourne under a fourth Deed of Variation by three months that will extend the due date to the 29 October 2019.
- 3.2 The extension of the long stop date will allow the Council and Spirit to continue their discussions.

### **4 Alternative Options**

- 4.1 The revised Longstop Date is not agreed, and the Council will have to consider approval on the original submission and whether the conditions have been met, this is not recommended as we are seeking a better solution and Legal advice has indicated that we need to act reasonably.

### **5 Consultation Undertaken or Proposed**

- 5.1 Advice has also been taken with Legal and Commercial advisors.

### **6 Implications**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	Supports the Delivering regeneration objective.

Financial, Resource and Property	These have been taken account of in the overall financial arrangements for the development. The proposal to build residential units has to be fully funded by Spirit.
Legal, Statutory and Procurement	Detailed Legal and Commercial advice has been provided by Pinsent Mason.
Crime and Disorder	No implications have been identified from this change
Environment and Sustainability	No implications have been identified from this change
Health and Wellbeing	No implications have been identified from this change
Risk Management and Health and Safety	Risk Management and Health and safety are fully covered in the Development Agreement and this change has not raised any new issues.
Equality and Diversity	No implications have been identified from this change
Privacy and Data Protection	No implications have been identified from this change

## 7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:

## 8 Background Papers

- 8.1 Cabinet approval for the original Development Agreement,

<http://services.swale.gov.uk/meetings/CeListDocuments.aspx?MID=1422&RD=Minutes&DF=09%2f04%2f2014&A=1&R=0>

- 8.2 Cabinet approval for the first and second deeds of variation,

<http://services.swale.gov.uk/meetings/CeListDocuments.aspx?MID=302&RD=Minutes&DF=06%2f06%2f2012&A=1&R=0>

- 8.3 Cabinet approval for the third deed of variation,

<https://services.swale.gov.uk/meetings/documents/g1721/Printed%20minutes%2001st-Feb-2017%2019.00%20Cabinet.pdf?T=1>