

## RECORD OF OFFICER DECISION

<p>This form must be completed by or on behalf of the relevant Officer immediately after any decision has been made. Please send to the Proper Officer for publication in accordance with the Council's Constitution.</p>	
<b>NAME OF OFFICER MAKING DECISION (INCLUDING JOB TITLE) AND THE DECISION BEING MADE</b>	<p>Kathryn Carr, Director of Regeneration – To agree an extension to the initial conditions longstop date in the Development Agreement between Spirit of Sittingbourne and Swale Borough Council.</p>
<b>TITLE OF REPORT</b>	<p>Approval of an extension to the Initial Conditions Longstop date in the Development Agreement between Spirit of Sittingbourne and Swale Borough Council.</p>
<b>DATE THE DECISION WAS TAKEN</b>	<p>24<sup>th</sup> December 2015</p>
<b>SUMMARY OF REASONS FOR DECISION</b>	<p>Spirit of Sittingbourne has encountered some delays in satisfying all of the Initial Conditions in the Development Agreement within the agreed timescale. The Developers initial conditions should have been satisfied on the 25<sup>th</sup> March 2015, two years after the Council's conditions were satisfied and it is now expected that the due date will be on or around 31<sup>st</sup> March 2016. They have continued to work on the project and have satisfied some of the preliminary and remaining conditions ahead of programme. Legal advice has confirmed that it is of little consequence to the Council to agree to extend the deadline for the initial conditions and the decision falls within the authority delegated to the Director of Regeneration as part of the original Cabinet decision on 9 April 2014.</p> <p>Outstanding matters to complete the Developers Initial Conditions relate to vacant possession of the Council's properties on Fountain Street and the grant of a satisfactory planning consent. Arrangements are already in place to secure vacant possession and work is continuing to satisfy planning and agree the section 106 and it is considered that these will be completed in the new year on or around 31<sup>st</sup> March 2016</p> <p>Legal advice has confirmed that this decision falls within the delegated authority made at the Cabinet meeting referred to above to the Director of Regeneration to agree "any minor variations to the Development Agreement all in accordance with the terms and conditions of the Development Agreement where they do not have a material effect upon the development."</p> <p>This decision will not affect the ultimate longstop date in the Development Agreement which will remain as 60 months from the Council's conditions date that is 25<sup>th</sup> March 2018.</p>
<b>BACKGROUND</b>	<p>The Development Agreement between Spirit of Sittingbourne and Swale Borough Council includes a series of conditions and longstop dates for initial conditions, preliminary conditions and remaining conditions. Each set of conditions has a longstop date</p>

	for compliance and an ultimate longstop date at which point the Development Agreement would fall away. The Development Agreement allows for extension to the various initial longstop dates subject to mutual agreement but does not allow for extension of the ultimate conditions longstop date.
<b>DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	The alternative would be not to extend the Initial Conditions Longstop date in which case the Council would lose its option to determine the Development Agreement should the Developer default on any of the conditions. The Developer is at a point where all of the conditions will be satisfied in the near future and the Development Agreement will go unconditional so the alternative to not extend the longstop date and terminate the Development Agreement is not considered to be in the Council's best interests.
<b>DETAILS OF ANY CONSULTATION UNDERTAKEN</b>	<p>Consultation has been carried out in accordance with recommendations 1 and 3 of the Cabinet approval of 9th April 2014 with the Leader and Cabinet member for Regeneration</p> <p>Legal advice was obtained that confirmed that agreement was a formality under the terms of the Development Agreement and fell within the delegated authority to the Director of Regeneration from Cabinet on the 9<sup>th</sup> April 2014.</p>
<b>DETAILS OF ANY CONFLICTS OF INTERESTS</b>	None
<b>CONTACT FOR ENQUIRIES/FURTHER INFORMATION</b>	Peter Binnie
A copy of this Notice will be published on the Council's website ( <a href="http://www.swale.gov.uk">http://www.swale.gov.uk</a> )	

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