

<b>Cabinet Meeting</b>	
<b>Meeting Date</b>	30 October 2019
<b>Report Title</b>	Development Agreement between the Council and Spirit of Sittingbourne
<b>Cabinet Member</b>	Cllr Roger Truelove, Leader and Cabinet Member for Finance Cllr Monique Bonney, Cabinet Member for Economy and Property
<b>SMT Lead</b>	Emma Wiggins Director of Regeneration Nick Vickers, Chief Financial Officer
<b>Head of Service</b>	Nick Vickers Chief Financial Officer
<b>Lead Officer</b>	Nick Vickers Chief Financial Officer
<b>Key Decision</b>	Yes
<b>Classification</b>	No-Restricted Appendix
<b>Recommendations</b>	1. That Cabinet delegates authority to the Director of Regeneration and Chief Financial Officer in consultation with the Leader and Cabinet Member for Finance and the Cabinet Member for Economy and Property to determine a way forward based upon the options in the restricted report.

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

- 1.1 This report sets out the background to the current relationship between the Spirit of Sittingbourne consortium and the Council and considers the future of that relationship.

## **2 Background**

- 2.1 The Council entered in to a Development Agreement with the Spirit of Sittingbourne consortium in September 2012 and there were subsequent variations in January 2015, June 2017 and September 2019. The Development Agreement was based upon a phased approach:

Phase 1- a retail development on a site owned by the Council, a Leisure development again primarily on Council owned sites (Cinema/Travelodge/restaurants) and 212 apartments on three Council owned sites.

Phase 2- a new civic centre.

- 2.2 Whilst the Council and Spirit were able to agree the Development Agreement the subsequent land assembly, particularly in relation to Network Rail land, and the lack of a viable funding plan meant that there was no progress on the ground. This impasse was broken in November 2016 when the Council through a Cabinet decision determined to become the owner and then funder of the retail and leisure development. An independently evaluated business case was approved by Cabinet and was subject to robust challenge by Scrutiny Committee.
- 2.3 The case for the Council taking on the funding and ownership reflected a major trend in the last 4-5 years for local authorities to once again become active players in the commercial property market. Council finances have tightened and generating new income streams has become important for Council finances to balance. This is at a time when returns on treasury investments have been low and borrowing costs have also been low. So borrowing to create income streams has become widespread for local authorities.
- 2.4 This new approach to commercial property investing is clearly not without risk. Councils will take on long term borrowing costs and the risk of tenant default. They also take on much more significant property management risks than they have typically had.
- 2.5 This Council has mitigated these risks to date by:
- (1) Transferring build cost risk to Spirit,
  - (2) Achieving a pre let on income of 85% and Spirit will guarantee any voids for a 2 year period from completion, and
  - (3) The Council has as far as possible self-funded the development from cash flow and has only borrowed £20m for short periods and at a cost lower than that assumed in the business model.
- 2.6 The retail units started trading in the summer of 2018 and with the ending of rent free periods will generate an income of £495,000 per annum.
- 2.7 The leisure development is due to complete in December 2019. The Travelodge will open first and after that and the cinema and restaurants will open after fit out in the Spring. Currently there are four pre lets to restaurant operators including three national chains. The Council is working actively with Spirit and Savills on the three vacant units and there are reasons for optimism on their letting. Total income for this part of the development will be £1.1m per annum.
- 2.8 The next part of Phase 1 is the residential development by Spirit on three sites owned by the Council; Cockleshell Walk and Spring Street currently used for long term car parking and Fountain Street which had been used for commercial property lettings (now ceased). Under the Development Agreement last amended by Cabinet on 25 September Spirit have until 19 October to meet the conditions,

including a funding condition to Spirit. The issues around this transfer are considered in the restricted report.

- 2.9 The development agreement also commits the Council to a Phase 2 centred on a new Civic Office. The outline of this phase is a Civic Centre, Medical Centre and residential development on the Swale House site. The Phase 2 trigger starts after practical completion of the Leisure and Spirit then have two years to meet the preliminary conditions.

### **3 Proposals**

- 3.1 The options have been set out in the restricted report.

### **4 Alternative Options**

- 4.1 A range of options have been considered and the two main options are set out in the restricted report.

### **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	Any funding implications will be handled through the overall project funding arrangements.
Legal, Statutory and Procurement	Detailed Legal and Commercial advice has been provided by Pinsent Mason. Mid Kent Legal Services have also been consulted on the governance issues.
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	No implications have been identified

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 None

## **8 Background Papers**

8.1 None