

Report to:	EXECUTIVE CABINET
Date:	23 June 2021
Executive Member:	Cllr Oliver Ryan, Executive Member for Finance and Economic Growth
Reporting Officer:	Jayne Traverse, Director of Growth Gregg Stott, Assistant Director of Investment, Development and Housing
Subject:	HATTERSLEY DEVELOPMENT AGREEMENT DEED OF VARIATION 2021
Report Summary:	To permit a Supplemental Agreement to the Deed of Variation July 2015 to allow for the deferral of the final Public Realm payment of £1m until 31 December 2021 and to extend the longstop date for Site 28 until 31 December 2022.
Recommendations:	<ol style="list-style-type: none"> 1) Authorise a Supplemental Agreement to the Deed of Variation July 2015 to allow for an extension of the draw down longstop date for Site 28 to 31 December 2022 2) Authorise a Supplemental Agreement to the Deed of variation July 2015 to allow for the final Public Realm payment to be deferred until 31 December 2021.
Corporate Plan:	The Hattersley regeneration project contributes to the delivery of the Corporate Plan ensuring a modern infrastructure and a sustainable environment that works for all generations and future generations.
Policy Implications:	The Hattersley regeneration project is an important component in of the Council's Inclusive Growth Strategy 2021-2026 supporting the delivery of new homes, public realm and skills programmes working together to tackle deprivation.
Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer)	<p>The Council is the accountable body of the Hattersley Development Agreement.</p> <p>To date BASE Hattersley LLP (Barratt Homes) has paid £3m within this agreement. As explained in section 2 and 3.1 of the report the remaining £ 1m balance that relates to public realm was due on 31 December 2020 but has not been paid.</p> <p>The expenditure on public realm at 31 March 2021 via the £3m paid by BASE Hattersley LLP (Barratt Homes) was £0.3m. The remaining balance (including interest) of £2.7m is held by the Council and is ringfenced entirely for the Hattersley Development Agreement.</p> <p>The report recommends that BASE Hattersley LLP (Barratt Homes) pay the remaining £1m balance to the Council on 31 December 2021.</p> <p>It is essential that, as accountable body, the Council has assurance that the balance due will be received on this date at the latest on behalf of the partnership. In addition it is also essential that the partners of the agreement incorporate the timing of this payment into the phasing and subsequent delivery of the related public realm improvements within Hattersley as set out in the development</p>

agreement. It is recommended that related details should also be reported to members of the Hattersley Land Board.

Members should note that the proposed deferral of the £1m payment by 12 months will result in a loss of interest to the partnership that is estimated to be £0.001m based on the latest Bank of England base rate.

**Legal Implications:
(Authorised by the
Borough Solicitor)**

The report requests:

1. An extension to the longstop date for drawdown of the final phase of the Development; and
2. Deferral of a payment from the developer in respect of public realm works.

In respect of the extension to the longstop date the Council must be certain that the proposed date for drawdown is reasonable, realistic and proportionate and that delivery of the phase is achievable.

In respect of deferral of the public realm payment, the Council must be certain that the developer will be able to make the payment on the revised date i.e. that there are no solvency issues which mean that there is a risk of payment not being made.

It would be helpful to understand why an escrow account is not being proposed. An escrow account is a separate account owned by a third party. This third party will hold money/assets on behalf of two other parties. The first party will pay money into the escrow account, then upon pre-determined contractual obligations being met by the second party, the escrow account holder will release the funds to the second party.

Risk Management:

The funds and interest are held by the council but are not available to the council.

Background Information:

The background papers relating to this report can be inspected by contacting Andrew Wood – Senior Development Manager



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1. INTRODUCTION

- 1.1 In 2006, the Hattersley public sector partners entered into a Collaboration Agreement and subsequently a Development Agreement with BASE Hattersley LLP (Barratt Homes) in March 2007 for private sector residential development. The public sector partners are now Tameside Metropolitan Borough Council (TMBC), Onward and Homes England following various name changes since the original agreements were signed.
- 1.2 This report is to allow a Supplemental Agreement to the Deed of Variation July 2015 for a deferment of the final Public Realm payment from BASE Hattersley LLP (Barratt Homes) and to extend the draw down longstop date for Site 28 as shown edged in Appendix 1.

2. BACKGROUND

- 2.1 The Development Agreement (DA) with BASE Hattersley LLP (Barratt Homes) 2007 was varied by way of a Deed of Variation in 2015, which had four main aspects, two of which are relevant to this report; the financial arrangements for the public realm and the development milestones.
- 2.2 The Development Agreement required BASE Hattersley LLP (Barratt Homes) to undertake off site public realm improvements ranging from improved parking to play and recreation facilities. However it was not possible to implement this so the Deed of Variation of 2015 created a revised mechanism for the implementation of the public realm. This allowed BASE Hattersley LLP (Barratt Homes) to agree to pay a total of £4m to the public partners on a series of longstop dates. The last payment was due to be made by 31 December 2020.
- 2.3 The Deed of Variation 2015 also reflected the development milestones in the DA of 2007 which set out the drawdown longstop dates of the sites for development and the subsequent delay in the development programme. The last longstop date was 31 December 2021 for Site 28.

3. THE PURPOSE OF THE REPORT

- 3.1 BASE Hattersley LLP (Barratt Homes) have requested to defer the final Public Realm payment of £1m from 31 December 2020 until 31 December 2021 and to extend the drawdown longstop date for Site 28 from 31 December 2021 until 31 December 2022. There is currently £2.7m in the account available to spend on public realm.
- 3.2 The reasons for the request to defer the payment are twofold. There is currently approximately £2.7m in the Public Realm fund, which is currently sufficient for the schemes needs. Secondly, it will assist BASE (Hattersley) LLP in managing the impacts of the COVID-19 pandemic on delivery and cash flow.
- 3.3 In respect of the request to extend the longstop date for Site 28 this is due to an issue with the planning application / decision for this site. It is in the process of being resolved but this will take additional time, so a request to extend the drawdown longstop date has been made.
- 3.4 Barratts submitted a planning application (Ref. 19/01090/REM) on 17.12.2019, issues arose with this application which will require a revised application to be submitted. This will go through the planning process. These issues have required Barratts to request an extension to the longstop date to allow them time to be able to request the drawdown of the land.
- 3.5 The Public Realm money is held by the Council as the accountable body and the interest payments are added to the fund, therefore there is no loss of income to the Council.

4. SUPPORT FROM OTHER PUBLIC SECTOR PARTNERS

- 4.1 Onward have already formally confirmed their approval of the deferment of the Public Realm payment and the extension to the longstop date for Site 28.
- 4.2 Homes England (HE) is currently taking a report through the HE internal process for approval to defer the Public Realm payment and extend the longstop date. This is expected to be approved by June/July 2021.

5. CONCLUSION

- 5.1 The deferral of the final Public Realm payment and extension to the longstop date for Site 28 will enable BASE (Hattersley) LLP to continue their significant support for the delivery of the Hattersley regeneration project in accordance with the Council's growth and development priorities.

6. RECOMMENDATIONS

- 6.1 As set out at the front of the report.