

Cabinet – 4 April 2012

Goscote Regeneration Area – Draft Development Agreement

Portfolio: Councillor Adrian Andrew, Deputy Leader, Regeneration

Service: Regeneration, Development and Delivery

Wards: Blakenall

Key decision: Yes

Forward plan: Yes

1. Summary

- 1.1 In February 2012 Cabinet endorsed the action and principle of a flexible approach being undertaken to progress the residential development package for the Goscote Regeneration Area. Cabinet also agreed to receive a future report setting out the details of the draft development agreement prior to procuring a preferred developer partner(s) through an OJEU Restricted Procedure.
- 1.2 This report details the draft Development Agreement for the Goscote Regeneration Area.

2. Recommendations

- 2.1 That Cabinet endorses the draft Heads of Terms for the Goscote Regeneration Area development agreement **Appendix A**.
- 2.2 That Cabinet agrees to receive a future report following the procurement process prior to awarding the contract to the preferred developer partner(s).
- 2.3 That Cabinet endorses the principle to revise the Collaboration Agreement between the Council and Walsall Housing Group to incorporate overage arrangements and update working arrangements between the partners.
- 2.4 That Cabinet agrees to receive a future report setting out the revised Collaboration Agreement.

3. Report detail

- 3.1 Following detailed development appraisal work and 'soft' market testing during 2011, work has recommenced to progress an attractive commercially viable and deliverable residential package and to subsequently procure a developer partner(s).

3.2 An outline planning application for the Goscote Regeneration Area was prepared by the landowners and submitted to the Local Planning Authority (LPA) in January 2012. As set out in the February 2012 Cabinet report, the key elements of the outline planning application are:

- Inclusion of land in the Council's ownership (sites C and J) along with land in whg's ownership (sites A, B, D, G and H) for residential development purposes.
- The principle of the land-use exchange involving the development of existing Green Belt land at site J (approx. 6ha) but with the majority of site B (approx. 8.6ha) reverting to Green Belt designation under the management of the Council.
- Financial viability appraisals that demonstrate the necessity for a flexible approach to planning obligations to ensure viability of the scheme, namely:
 - A reduction in the level of S106 contributions and affordable housing, but with the potential to reach policy required contribution levels throughout the lifetime of the project.
 - Reinvestment of residual values directly into community infrastructure benefits rather than through the traditional S106 payment mechanism.

The outline planning application was considered at Planning Committee on 14th March 2012 and was deferred until June/July 2012 in order for up-to-date ecology survey work and further community consultation to be undertaken. The determination of the outline planning application will be subject to referral to the National Planning Case Unit/Secretary of State and possible Public Inquiry.

Whilst not pre-determining the decision by the Planning Committee or the NPCU/SoS, to maintain project momentum the partners have commenced the preparation of the draft Development Agreement that will support the future procurement of a developer partner(s). The planning conditions set out in the planning decision notice form the basis of the draft Development Agreement. An Executive Summary of the draft Development Agreement is appended to this report. The key elements of this document include:

- Extent of the sites / land within the package, including Sites C and J in the Council's ownership.
- Contractual arrangements including building licences, title transfer, conditions of sale and long leases.
- "Conditions Precedent" including application(s) and approval of reserved planning matters.
- Programme phasing (including "Conditions Precedent" and "Milestones"), including development order of sites, phases per site, infrastructure delivery, and target commencement and completion dates.
- Residual Value/Price after the delivery of "Guaranteed Essential Works" by the developer, and subsequent mechanism for reinvesting residual value into "Desirable Works".
- "Overage" payments to landowners as a result of potential increases in residual and sales value or housing square footage rate or number of dwellings over the lifetime of the development programme.

- Monitoring system including a Project Board and review meetings, as well as the option to set up monitoring sub-groups.
- Long-term Stewardship Strategy
- Dispute resolution and Termination
- Warranties and Indemnities
- Guarantor

It is anticipated that the other preparation work and documentation for the procurement process (e.g. drafting the OJEU Contract Notice, PQQ/ITT, award criteria, etc) will start in spring 2012, ahead of commencing an OJEU Restricted Procedure to secure a developer partner(s).

4. Council priorities

- 4.1 The project aims to achieve increased numbers and types of new homes, including a percentage of affordable housing, alongside high quality environmental, infrastructure and community facility improvements. This will contribute positively towards the Council's 'Communities and Neighbourhoods' and 'Health and Wellbeing' priorities. Ensuring that the development programme generates work and training opportunities for the businesses and residents of the borough through the Think Walsall approach is also a key objective/output, as well as the overall residential development attracting the workforce required to develop the boroughs Economy. The project therefore has benefits towards the Council priorities as set out in the Corporate Plan 2011/12 – 2014/15.

5. Risk management

- 5.1 **Risk 1 – The procurement process is delayed due to preparation of the procurement documentation and not gaining endorsement approval of the draft development agreement**
(Risk Level Low)

The partners have continued to work closely throughout the progression and development of the project, with reporting, discussions and decision-making held with the Council Cabinet, Leadership and ward Members, as well as whg Board and Directors. The content of the outline planning application forms the basis of the draft development agreement – the principles of which were endorsed by Cabinet in February 2012 and whg Board in November 2011.

Following a competitive tender process in 2011, the legal firm Squires, Sanders, Hammonds (SSH) were appointed jointly by whg and the Council to advise on the project and undertake the developer partner(s) procurement through an OJEU Restricted Procedure. SSH have prepared the draft Development Agreement that is the subject of this report, and will also be preparing the accompanying procurement documentation and leading the procurement process. This work has been built into their work programme and the project team will continue to regularly meet with the legal team.

5.2 Risk 2 - Lack of developer interest in the Goscote Regeneration Area residential development package during the procurement process
(Risk Level Medium)

In the current economic climate the potential interest from a single developer to partake in a large-scale redevelopment project may be reduced. However, initial market intelligence and commercial advice gained suggests that house builders and developers are more attracted to sites that are packaged within one locality which offer an opportunity to create a sense of place/transformational change; similar to that which may be achieved with the Goscote Regeneration Area.

A 'soft' market testing exercise was undertaken in November 2011 with house builders which confirmed that there is a level of interest in the development package but identified the key known risks associated with phasing, rate of sales, average residential market values and area reputation/perception. Due to the risks of the development opportunity, house builders also confirmed that a developer profit of between 20-25% would be required. This is in line with the financial appraisal work that was submitted and assessed for the outline planning application and has subsequently informed the draft development agreement. Developers have also commented that forming a consortia of two developers building out different phases of the project would be of interest to them as it helps to spread the risk between them; this approach is now being considered as part of our procurement brief.

Obtaining an outline planning consent and drafting an attractive and thorough development agreement will also reduce the development risk and risk profile of the scheme; thus increasing interest from potential developers.

5.3 Risk 3 – Reduction in the level of community infrastructure benefits delivered through the package
(Risk Level Low)

In the current housing market the amount of residual value remaining within any development is reduced and it has been demonstrated that the s106 costs and affordable housing levels have an impact on the level of residual values available to be re-invested in community infrastructure benefits. Previously Cabinet agreed (firstly in April 2008) to reinvest any land values into community benefits, and the latest financial viability work assessed as part of the outline planning application confirms that this principle will still need to underpin the programme as a means of ensuring greater financial viability and investment in regenerative benefits for the local community.

Through pre-application discussions with the Local Planning Authority, the principle and viability justification of any residual value and s106 contributions being viewed as the same 'pot' to be reinvested into community infrastructure in the Goscote area was supported, including flexibility towards s106 and affordable housing levels. This will be subject to the assessment of the financial viability evidence submitted with the outline planning application and the future planning committee decision, which will need to be able to weigh the importance of community benefits against established s106 and affordability. The draft development agreement outlines the community infrastructure benefits within the "Guaranteed Essential Works" clause that the developer will be required to

deliver as part of the development scheme. These works directly relate to the development and are also fairly and reasonably related in scale and kind (in accordance with the Community Infrastructure Levy Regulations 2010 s122), which include level of open space improvements and education developments. The draft development agreement also includes a “Desirable Works” clause whereby any additional residual value realised through the project will be reinvested back into an additional programme of community infrastructure works (e.g. additional open space improvements).

5.4 Risk 4 – Landowners fail to benefit from increased values that may be generated by improved market conditions during the lifetime of the development programme
(Risk Level Medium)

It is extremely difficult to predict future variations in market conditions, particularly given the volatility that still remains in the residential market, the characteristics of the area, and the need for market and affordable housing. It is therefore not likely that the sites will yield greatly increased values over the development period (e.g. 8-10 years). However, the “overage” clause within the draft development agreement will enable landowners to benefit from any future increases in values. The priorities for reinvesting any overage back into the development will be pre-determined and agreed by the Council and whg and enshrined a revised legal Collaboration Agreement between the two parties.

6. Financial implications

6.1 Land Values, Residual Values and “Best Consideration”

A key principle of the Goscote package is the requirement for capital receipts/residual values from land in the ownership of the Council and whg to be reinvested directly back into the package with the developer(s) required to deliver community infrastructure benefits. This principle, which was first approved by Cabinet in April 2008, is needed to underpin the programme as a means of ensuring greater financial viability and is articulated within the approved planning application. Subsequently this forms a legal clause in the draft development agreement which details an agreed list of community infrastructure benefits, known as “Guaranteed Essential Works” that will be costed by the developer within their bid submission and subsequently delivered by the developer as part of the development programme. For example, the developer will implement and deliver the infrastructure required by the planning conditions, including off-site highways improvements, 16% affordable housing, a level of open space improvements on Site B and Swannies Field, and the expansion of local education facilities. The delivery of the “Guaranteed Essential Works” will form part of the development “Milestones”. The draft Development Agreement also details an agreed and prioritised list of “Desirable Works” which will be delivered through the reinvestment of any residual value (e.g. further open space improvements, hard infrastructure improvements to existing adjoining highways, paths, properties etc). The partners will have flexibility in selecting works to be undertaken from the “Desirable Works” list depending on the residual value received.

The service area beneficiaries – Education, Greenspaces and Housing Strategy – have been involved in the pre-application and planning stages and subsequent discussions on the level, type and prioritisation of infrastructure that would need to be provided to sustain the new community and in accordance with CIL Regulations 2010 s122. For example, this includes the provision of structured tree planting, footpaths and canal footbridge. Additionally the Council has a statutory duty to provide sufficient school places for children of statutory school age (5-16) under Section 14(1) of Education Act 1966. This requires the Local Authority to manage the supply of school places against demand and take appropriate action to supply additional school places where required. On considering the Goscote outline planning application Education identified that an increase by 1 form of entry within the primary school provision in the local area will be required.

Whilst the financial viability assessment provided with the outline planning application presents information on potential positive residual land values these are based on a number of assumptions (e.g. estimated remediation costs) at a moment in time. Attempting to value the Council's land holdings at this time based on the viability assessment would be inappropriate, particularly as further estimated costs for remediation and new/off-site highways provision are expected to be completed shortly. As the scheme progresses and assumptions are fixed then the understanding of land values will become clearer. The land will be valued prior to commencing the procurement process. However, the true land values will not be known until the completion of the OJEU procurement and contract signing. Any issues of disposing of the sites and the possibility of doing so at less than Best Consideration will be reported to Cabinet accordingly.

6.2 Overage

The outline planning application includes for an approximate number of dwellings and residential floorspace (sqft) on each development site based on indicative layouts. Through the reserved matters planning stage the developer(s) may achieve an increased number of dwellings or residential floorspace through their final design and layout. Additionally, if housing market growth is experienced over the lifetime of the project then increased sales values may also be realised. As referred to in Section 5.3, the draft Development Agreement therefore includes an "Overage" clause to ensure that the landowners benefit financially from any such future increases. It is anticipated that overage payments will be made on a phase by phase basis and will be equally apportioned between the developer and the landowners on a 50% basis. However this will be determined through the developer bid submissions and negotiations. The agreed mechanism and approach to the apportionment of the overage share between the landowners (whg and the Council) and priorities for investment will be pre-determined and agreed by the partners and enshrined in a revised Collaboration Agreement. This will be set out in a future Cabinet report.

6.3 Development Clawback

Under the Large Scale Voluntary Transfer (LSVT), Development Clawback is payable by whg where it sells land for any purpose other than social housing. Clawback is calculated as the difference between the value of the land sold by whg on the open market and the value of the same land for social housing purposes. Clawback is divided three ways; a third accruing to the Council, a third to whg and a third allocated to the Visionary Investment Enhancing Walsall fund

(VIEW) for regeneration projects. Subsequently, it has been agreed that, subject to whg contributing its third, the Council will also reinvest its share of any money generated by the clawback provisions into VIEW for regeneration projects.

In September 2009, Cabinet agreed to waive development clawback in SRF areas to reflect both the Council's and whg's intention to reinvest their respective one third shares generated from the disposal of land assets in the SRF1 areas (Goscote, Brownhills and Moxley) back into the comprehensive housing regeneration and delivery of community infrastructure benefits in these areas.

The outline planning application and supporting financial viability assessment identifies that the residential development is viable through adopting a flexible approach towards the level of affordable housing and other requirements. This has implications on the proportion of clawback, as the higher mix of open market housing (approx. 84%) increases the proportion of clawback being reinvested into the development package. To ensure viability and delivery of the package, the clawback funds will be reinvested back into the residential development in the first instance. Subsequently, any residual value and overage generated from the package (assisted by the reinvestment of clawback into the housing developments) will subsequently deliver the agreed community infrastructure benefits which are articulated within the draft development agreement and future revised Collaboration Agreement.

6.4 Project Costs

As a partnership project, the financial costs including consultancy, legal and planning application fees associated with the project will be met jointly by the Council and whg.

7. **Legal implications**

7.1 Following a competitive tender process in 2011, the legal firm Squires, Sanders, Hammonds (SSH) were appointed jointly by whg and the Council to advise on the project and undertake the developer partner(s) procurement through an OJEU Restricted Procedure. SSH have prepared the draft Development Agreement that is the subject of this report, and will also be preparing the accompanying procurement documentation and leading the procurement process. This work has been built into their work programme and the project team will continue to regularly meet with the legal team.

7.2 The draft Development Agreement for the Goscote Regeneration Area is the subject of this report and is appended as appropriate. Many of the legal implications are therefore embedded within the financial/property implications sections of this report.

8. **Property implications**

8.1 Contractual Arrangements

The development agreement will be a joint agreement between the parties (whg, the Council, the developer(s) and guarantor).

The landowners (whg and the Council) will retain title to the land initially and grant licences to the developer on an agreed phased basis. Separate licences for remediation works and building works may be required depending on the final Remediation Strategy (e.g. the remediation of one site may be linked or dependent on another, therefore remediation on a site by site basis may not be feasible). Granting licences will provide additional security to the landowners throughout the development programme and also ensure that the project develops as the Council and whg intend. Then, on completion of the programme the freehold interest in each individual dwelling will be transferred from the landowner direct to the purchasers. Additionally, on completion of the phases, a land exchange between landowners in relation to Site J and B will then occur.

8.2 Phasing

The draft Development Agreement contains various clauses in relation to the phasing of the development programme which will ensure that the landowners retain control and development progresses in an acceptable manner. These include:

- The development order of the sites as set out in the “Phasing Plan” as per the planning condition (e.g. Site H, J, A/D, B, C).
- The number of units/site area that the developer will be permitted to draw-down as tranches within a site phase (i.e. tranches of approximately 5 acres or 70 units).
- The restriction that the developer will not be permitted to start on a subsequent phase until 75-80% of the dwellings on the current phase have been built and occupied.
- Specified “Milestones” that the developer will be required to meet, such as set dates for the submission of phased Reserved Matters applications, commencement and completion of phases and infrastructure, and completion of the overall development.

The “Project Board and Review Meeting – Monitoring System” will be the forum where achievements and progress of these elements are reviewed and considered.

8.3 Management and Maintenance

As part of the proposed land exchange between Sites B and J, following the remediation of the new open space / Green Belt area at Site B, the land ownership of this area will be legally transferred to the Council. This will be set out in the revised Collaboration Agreement. Whilst residual land values from the package will be re-invested into delivering a level of infrastructure improvements on this site (e.g. landscaping, paths), the general on-going management and maintenance costs will be met by the Neighbourhoods Directorate on adoption of the asset.

Responsibility for the management and maintenance of the other open / green amenity spaces included within the new residential development areas has also been considered within the draft Development Agreement through a “Long Term Stewardship” clause. As part of this the landowners will grant a building licence for a phase to the developer provided that the long term stewardship for the phase has been agreed. A “Long Term Stewardship Strategy” will also be set out which is likely to involve new freehold residents paying a fee to Walsall Housing

Group who will manage the stewardship agreement and implement the maintenance.

9. Staffing implications

The project will continue to be led, in conjunction with colleagues in Asset Management, Planning, Strategic Housing, Finance and Legal, and at whg and Homes and Communities Agency, by the established Development Team within the Development and Delivery Service as part of Regeneration Directorate.

10. Equality implications

10.1 An Equalities Impact Assessment was undertaken for the Goscote Development Package Cabinet report in February 2012; this assessment remains valid for the content of this Cabinet report.

10.2 The Council is seeking to achieve the highest possible level in the Equality Standard for Local Government. As part of this we are seeking to ensure that wherever possible our activities ensure a positive impact is made on people / communities using the 6 equality themes / strands. The companies who tender to become a developer partner will be expected as a minimum to support both the Council and whg's equality and diversity policies. They will be required to highlight how their company will ensure the regeneration benefits for people based upon:

- Gender
- Ethnicity
- Age (i.e. young and old)
- Sexuality / sexual orientation
- Religion and or belief
- Disability

11. Consultation

11.1 A Project Reference Group (PRG) operates for the Goscote Lane Corridor regeneration area. The role of the PRG is as an overall project steering group and has been important in continuing to represent local interests and key stakeholders. This continual engagement through the PRG will remain an important mechanism for demonstrating the commitment to regeneration of their neighbourhood despite the difficult market and funding position. The PRG were also key in continuing and directing community engagement throughout the planning application process and will be important throughout the subsequent stages of the project.

11.2 Officers will continue to present and discuss the project at the Council's Capital Strategy Board and at Walsall Housing Group's Boards throughout the preparation and OJEU procurement stages.

Background papers

- Appendix A – Executive Summary of the draft Development Agreement for the Goscote Regeneration Area.
- Strategic Regeneration Framework 1: Update Report – Cabinet report 09 February 2011
- Strategic Regeneration Framework 1: Further report on the packaging and marketing of the Goscote SRF1 sites – Cabinet report 13 April 2011
- Goscote Development Package – Cabinet report 8 February 2012.
- Goscote Lane Regeneration Corridor – Hybrid outline planning application (no. 12/0036/FL)

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4 April 2012

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4 April 2012

DATE: 15 March 2012

**WALSALL METROPOLITAN BOROUGH COUNCIL
("WMBC") AND WALSALL HOUSING GROUP
("WHG")**

DEVELOPMENT AGREEMENT

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**WALSALL METROPOLITAN BOROUGH COUNCIL ("WMBC")
AND WALSALL HOUSING GROUP ("WHG")**

**Development Agreement relating to the Regeneration of the Goscote Lane Corridor
(the "Agreement")**

EXECUTIVE SUMMARY

The principal terms of the Agreement are as follows:

1 PARTIES

WMBC and WHG (as joint landowners) and the Developer. We may require a guarantor of the Developer to join in the Agreement depending on the covenant strength of the Developer company (having regard to the development obligations).

2 OBJECTIVES

2.1 The objectives of the parties are set out in the Agreement to record the overarching aims of entering into this development arrangement, namely the regeneration of the Goscote Lane Corridor as a high quality sustainable residential development together with its long term management and stewardship.

2.2 The objectives include:

- To provide a mixed tenure community with a minimum 16% affordable housing.
- To improve the appearance of the local environment and to make it a place where people aspire to live.
- To improve the existing public open space and provide new areas for recreational and leisure purposes.
- To increase and enhance primary school education provision in the local area.
- To integrate the canal into the redevelopment for leisure and recreational purposes.
- To ensure that local people are involved in the delivery of the redevelopment through consultation, partnership with schools and through local training, supply chain and apprentice opportunities.

3 SALE

WMBC and WHG agree to sell the Development Land to the Developer for an agreed price. The Development Land comprises sites A to J (but excludes site B which is designated for restoration to Green Belt).

4 PRICE AND OVERAGE

The price payable by the Developer for the Development Land is to be agreed as part of the bid process. The Agreement provides for an initial payment to be made by the Developer on the grant of the licence for each Phase (see paragraph 11 below), supplemented by a future entitlement to overage arising out of increased sales receipts by the Developer. Such increased sales receipts may be generated by increased land value, increased numbers of units, increased square footage of development, or increased sales prices. The Developer will be invited to submit proposals for overage payments as part of its bid.

5 OWNERSHIP

- 5.1 The legal title in the Development Land will be retained by WMBC and WHG until practical completion of the development or a relevant part of it. Following practical completion, the individual dwellings will be transferred (or let on a long lease in the case of apartments) by WMBC and/or WHG directly to the end purchaser, at the direction of the Developer.
- 5.2 The beneficial interest in the Development Land will pass to the Developer following satisfaction of the Conditions Precedent, and the legal title will be held by WMBC and WHG on trust for the Developer in accordance with the terms of the Agreement.

6 CONDITIONS PRECEDENT

The sale to and purchase by the Developer of the Development Land is conditional on:

- The grant of reserved matters approval for the first phase of development.
- Charity Commission consent for WHG and any other consent required under Housing legislation.
- Other conditions agreed by WMBC and WHG.

7 DEVELOPMENT LICENCE

Following satisfaction of the Conditions Precedent the Developer will be granted an exclusive licence to the Site for the purpose of carrying out the Development. (NB: the Site is made up of the Development Land and Site B). The Developer will not however be entitled to commence development until the relevant reserved matters approvals have been obtained and strategies for affordable housing and long term stewardship have been approved by WHG.

8 DEVELOPMENT

- 8.1 The Developer will be responsible for the comprehensive development of the Site including remediation, infrastructure, construction of dwellings, restoration of site B as green belt and provision of educational and open space requirements as agreed. A set of Guaranteed Essential Works and a separate set of Desirable Works will be agreed with the Developer as part of the development proposal. Essentially WMBC and WHG will “recycle” capital receipts to achieve the Guaranteed Essential Works and the Desirable Works.

- 8.2 The Guaranteed Essential Works will comprise extensions to two local primary schools and the upgrading of a third local primary school together with improvements to existing open space.
- 8.3 Desirable Works will include building a new local primary school (as an alternative to the extension and upgrade works) and improving open space provision over and above the requirements of the planning permissions. Additional Desirable Works will be set out in the tender document.

9 APPROVALS

- 9.1 Outline planning consent will be obtained for the development by WMBC and WHG before inviting tenders from developers. The Developer will then obtain approvals of reserved matters in accordance with its initial bid and in accordance with subsequent plans, specifications and drawings approved by WMBC and WHG, and also in accordance with a phasing and construction programmes agreed between the parties.
- 9.2 No alterations are permitted to be made to any of the development plans or details without the approval of WMBC and WHG.
- 9.3 The Developer will keep WMBC and WHG informed of progress of all planning applications and will use all reasonable endeavours to obtain approval of reserved matters for the first phase of development within 6 months of the date of the Agreement.

10 LONG STOP DATE AND TERMINATION

If approval of reserved matters for the first phase of the development has not been achieved within 12 months of the date of the Agreement, the Agreement may be terminated. Furthermore, if approvals of reserved matters for subsequent phases are not achieved within 12 months of the date of submission of the relevant planning application, then again the Agreement may be terminated.

11 PHASING

- 11.1 The Developer will complete the development in phases. WMBC and WHG will retain title to the Development Land. They will grant a licence to the Developer to carry out the development of each phase once approval of reserved matters has been obtained and once affordable housing and stewardship strategies for the particular phase have been agreed.
- 11.2 The Developer will not be entitled to move on to the next phase of development until 75% of the dwellings on the current phase have been built out and sold to purchasers.

12 SITE SECURITY

On commencement of the development of the first phase, the Developer will fence off the Development Land, will assume responsibility for site security and will accept the risk in the property from that date. It will also pay all outgoings in relation to the Development Land during the development period.

13 WARRANTIES

The Developer will appoint a professional team and will procure warranties in favour of WMBC and WHG from each member. Similar warranties will be procured from any contractors and sub-contractors engaged by the Developer. Equally the Developer will require a warranty from your remediation engineer.

14 REQUISITE CONSENTS

It will be the Developer's responsibility to obtain all consents required in connection with the development and to negotiate any agreements with statutory authorities, neighbouring landowners or other interested parties to facilitate the development.

15 WORKS OBLIGATIONS AND PROGRAMME

- 15.1 A Target Development Programme is to be approved by WMBC and WHG prior to the Agreement being entered into. A construction programme for each phase will then be submitted to and approved by WMBC and WHG prior to works on each phase commencing. A long stop date for completion of the development and construction of all dwellings will need to be agreed with the Developer.
- 15.2 Key Milestone dates will be set out in the Agreement. Failure to achieve these dates could lead to termination of the Agreement.
- 15.3 The development is to be carried out in accordance with all relevant consents and NHBC requirements, and the Developer will keep the site reasonably tidy and clear of rubbish at all times. WMBC and WHG will have a right to inspect and view the state of progress of the development on reasonable notice.

16 PROJECT BOARD AND REVIEW MEETINGS

- 16.1 A project board will be set up to review and monitor on an ongoing basis the progress of the development throughout the development period. The Project Board's purpose will be to consider issues such as estate management, long term stewardship, essential works and desirable works, attainment of objectives, achievement of Milestones and delivery of sales etc.
- 16.2 The Project Board is intended to be made of senior officers within each organisation (WMBC, WHG and the Developer).

17 SALES

The Developer shall be obliged to sell all dwellings designated for private sale at arm's length on the open market and shall seek to achieve the open market value for each dwelling. The Developer shall have absolute discretion as to pricing policy and incentive policy.

18 DISPUTES

Any disputes arising between the parties under the Agreement may be referred for determination by an expert.

19 ENVIRONMENTAL

Environmental liability in the Development Land shall pass to the Developer on the date on which the Developer commences development of the first phase. The Developer shall indemnify WMBC and WHG from any claims and other matters arising in relation to environmental condition of the Development Land thereafter.

Squire Sanders (UK) LLP

15 March 2012