

URGENT REPORT TO THE LEADER

26 APRIL 2022

GUARANTOR AND PARENT COMPANY GUARANTEE REQUESTS

Portfolio Holder: Councillor Adrian Gulvin, Portfolio Holder for Resources

Report from/Author: Phil Watts, Chief Operating Officer

Summary

This report requests the Leader to grant delegated authority to the Chief Operating Officer to authorise requests to grant Guarantor and Parent Company Guarantees on behalf of the Council in order to enable exchanges to progress on a number of sales.

1. Budget and policy framework
 - 1.1. The Leader has urgency powers to make decisions which would ordinarily be made by the Cabinet. These provisions are set out in the Constitution (paragraph 2.2 of Part 3 (Responsibility for Cabinet functions) of Chapter 3 (Responsibility for Functions) of the Constitution.
 - 1.2. The Chairman of the Business Support Overview and Scrutiny Committee has agreed that the taking of these decisions are urgent and cannot be reasonably deferred until the next Cabinet meeting on 10 May 2022, in accordance with Section 11 (Cases of special urgency) of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 and Rule 17 (Special Urgency) of the Access to Information Rules (Part 2 of Chapter 4 in the Constitution). This is because to enable exchanges to progress on a number of sales. The sales undertaken on the Garrison Point scheme being delivered by Medway Development Company (Land and Projects) Ltd. have progressed at pace and this decision is needed to complete exchanges as soon as possible.
 - 1.3. Additionally, and in line with rule 15.11 of Chapter 4, Part 5 of the Constitution, call-in can be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the Public's interests. The Chairman of the Business Support Overview and Scrutiny Committee has agreed that the decisions proposed are reasonable in all the circumstances

and to them being treated as a matter of urgency and to waive call-in.

2. Background

- 2.1. Medway Development Company (Land and Projects) Ltd. is developing several residential led projects, as part of wider regeneration initiatives being implemented by the Council.
- 2.2. Property development and transactions sometimes require Guarantor and Parent Company Guarantee requests.
- 2.3. It has been established that the Chief Operating Officer requires express approval in order to agree such requests and without the necessary delegated authority in place the exchange of sales cannot progress.

3. Options

- 3.1. Do not agree the request. This would restrict the ability of Medway Development Company (Land and Projects) Ltd. to transact and operate and is not a viable option.
- 3.2. Do agree the delegated authority to enable Medway Development Company (Land and Projects) Ltd. to transact and operate at pace.

4. Risk management

- 4.1. Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community. Using the following table this section should therefore consider any significant risks arising from your report.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Loss of sales	That the delay in granting parent guarantees could result in delays to exchange or even potentially loss of sales.	Delegated authority granted to the Chief Operating Officer to grant parent guarantees on behalf of the Council.	B2

5. Financial and legal implications

- 5.1. Guarantor and Parent Company Guarantee requests place obligations on the Council to fulfil contracts where the contracting party is no longer able to. In relation to this request, Medway Development Company (Land and Projects) Ltd. is wholly owned by the Council and the request is effectively allowing the company to undertake property development and transactions for which it was created for.

6. Recommendations

- 6.1. The Leader is asked to agree, using urgency powers, to delegate authority to the Chief Operating Officer, in consultation with the Leader, the Portfolio Holder for Resources and the Monitoring Officer, to authorise requests to grant Guarantor and Parent Company Guarantees on behalf of the Council.
- 6.2. The Leader is asked to agree that recommendation 6.1 is considered urgent and therefore should not be subject to call-in.

7. Suggested reasons for decisions

- 7.1. To allow Medway Development Company (Land and Projects) Ltd. to undertake development and land transactions and continue the regeneration of Chatham and Gillingham with the provision of high-quality housing, public realm works and an improved retail offer. Delays in agreeing the parent company guarantee could risk the buyer changing their mind.

Lead officer contact

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Appendices

None

Background papers

None

.....(signed) April 2022 (date)

Councillor Alan Jarrett, Leader of the Council