



EXECUTIVE MEMBER DECISION

REPORT OF:	Executive Member for Growth and Development
LEAD OFFICERS:	Strategic Director of Growth & Development
DATE:	22 December 2022

PORTFOLIO/S AFFECTED: Growth and Development

WARD/S AFFECTED: Darwen West

SUBJECT: Salisbury Road, Darwen

1. EXECUTIVE SUMMARY

This report seeks approval to vary an existing contract between the Council and Lang Estates Limited ("Lang Estates") relating to the disposal of Council owned land at Salisbury Road, Darwen.

2. RECOMMENDATIONS

That the Executive Member:

- 2.1 Notes the Council and Lang Estates exchanged legal contracts in March 2019 with the freehold disposal to be preceded by a Building Licence to ensure development.
- 2.2 Approves a contract variation to remove the requirement for a Building Licence and instead allow Lang Estates to acquire the freehold interest prior to commencement of works.
- 2.3 Authorises the Growth Programme Director to complete the necessary legal formalities relating to the contract variation.

3. BACKGROUND

Following a successful tender bid by Lang Estates to develop the Salisbury Road site for housing, legal contracts were exchanged in March 2019 with the freehold disposal of the land to be preceded by a Building Licence.

Lang Estates is scheduled to have completed their pre-commencement planning conditions by November 2022 and intended to start construction works thereafter, however Lang Estates has requested a contract variation.

Lang Estates contract variation request is to disregard the building licence and instead acquire the freehold interest prior to commencement of works. This will allow Lang Estates the ability to obtain much needed development finance to support the developer's build out and cash flow requirements. The existing legal structure prevents the developer from raising third party finance as the legal

structure prevents the land being used as collateral. Restricting the developer to raise third party finance is inadvertently restricting development timescales as the developer is constrained by their own resources which are currently invested in other developments within the borough.

Approving the contract variation will help accelerate housing delivery, support housing growth and increase investment into the borough.

To note, Lang Estates is an experienced local SME developer with a good track record delivering housing and commercial schemes in the borough. Lang Estates is currently on site at Tower View, Darwen constructing 17 family homes.

4. KEY ISSUES & RISKS

In order for the Council to ensure the site is developed following the freehold disposal and to mitigate any potential future risks of a stalled site the below terms are proposed within the contract variation:

- 4.1.1 The development should commence within 12 months on the completion of the contract variation.
- 4.1.2 Option to buy-back the site for the original purchase price which will expire on commencement of the works.
- 4.1.3 Commencement works will be deemed to have been triggered upon the first inspection visit by the Building Regulations Inspector.

5. POLICY IMPLICATIONS

- 5.1 There are no policy implications to progress with a contract variation for this project.

6. FINANCIAL IMPLICATIONS

- 6.1 The Purchase Price was agreed in 2019 and Lang Estates paid a non-refundable deposit upon contract exchange in March 2019.
- 6.2 Lang Estates will pay the difference on transfer of the freehold transfer.
- 6.3 Under the proposed contract variation the Council will receive the remaining payment for the land during 2022/23, bringing forward the capital receipt by two years assisting the Council with capital receipt forecasts.

7. LEGAL IMPLICATIONS

- 7.1 The proposed contract variation removes the controls of a building licence structure which ensures the development is built out in agreed timescales which reduces the risk of a stalled development.
- 7.2 The proposed contract includes a buy-back option for the Council during the pre-commencement phase which will assist to mitigate the risk of a stalled site.

8. RESOURCE IMPLICATIONS

8.1 Legal resources will be required to complete the transaction.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 ☒ Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 ☐ In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 ☐ In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

None

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1
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CONTACT OFFICER:	PMO Growth, Growth Programme Director
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DATE:	November 2022
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BACKGROUND PAPER:	None
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