**Classification:** Part A
**Key Decision:** No

## Gravesham Borough Council

**Report to:** Leader of the Executive

**Date:** 6 November 2014

**Reporting officer:** Director (Housing and Regeneration)

**Subject:** Christian Fields redevelopment

### Purpose and summary of report:

To advise on the overage offer made by Countryside Properties Plc to the Council and Moat and to seek acceptance of that offer.

### Recommendations:

That the enhanced offer of £766,000 made by Countryside Properties PLC is accepted.

### 1. Introduction and Background

1.1 The Christian Fields redevelopment replaced a total of 208 Wates properties, of which 178 were Council owned, with a mix of 447 new properties (180 social rented, 15 affordable rented, 39 shared ownership and 213 for private sale), the development being completed in March 2013. The following table shows how the various tenures were spread amongst the different sizes and types:

| | 1 bed flat | 2 bed flat | 2 bed house | 3 bed house | 4 bed house | 5 bed house | Total |
|---|---|---|---|---|---|---|---|
| **Social Rent** | 1 | 2 | 52 | 74 | 41 | 10 | **180** |
| **Affordable Rent** | | | 6 | 9 | | | **15** |
| **Shared Ownership** | 11 | 22 | | 6 | | | **39** |
| **Private Sale** | 16 | 32 | 52 | 113 | | | **213** |
| **Overall Total** | **28** | **56** | **110** | **202** | **41** | **10** | **447** |

1.2 The redevelopment of this estate has delivered not just a greater number of better quality homes with a greater tenure mix, but has helped to resolve issues of anti-social behaviour and generated greater community involvement locally.

## 2. Overage provisions and offer

2.1 When the council invited proposals to take this redevelopment project forward, the submission from Countryside Properties and Moat envisaged no call being made upon public resources beyond transfer of the existing land and properties. However, in order to deliver the vision and deal with changes in the economy a number of variations occurred along the way, including significant financial input from the Homes and Communities Agency (HCA). In order that any profit made by Countryside above what was considered 'reasonable' could be captured by the partners, the HCA included a clawback provision in its funding agreement, whilst the Council and Moat included overage provisions in an overage agreement with Countryside dated 25 October 2011. In the Council's case, the requirement for payment of overage also satisfied the need to gain 'best consideration' for its capital assets.

2.2 On 29 September 2014 Countryside obtained confirmation that the HCA will not be requiring any payment under its grant clawback provisions (which would have impacted upon the settlement offered by them).

2.3 Moat has taken the lead in negotiating the final offer and the following seeks to outline that process.

2.4 Countryside initially proposed that the income used in the overage calculation should be the value of the sales (before deducting equity loans), with the provision of equity loans to be treated as a cost to the project. This would be the basis of an initial overage. The calculation for this proposal is shown in the 'initial payment' table below at column 1.

2.5 A final overage would become payable once all of the equity loans have been redeemed or become redeemable. This calculation would be based on the redemption value of the loans less interest charged by Countryside. The calculation for this proposal is shown in the 'final payment' table below at column 1.

2.6 This proposal was rejected for two principal reasons:

2.6.1 The charging of interest. As Countryside received all of their profit on the gross sum, the charging of interest was not considered appropriate. The Agreement is unclear on this matter. Whilst interest is not explicitly allowed for in respect of the equity loans, it does allow for the charging of interest during the development period. Countryside are arguing that, as the Completion Date is defined as the date of the final redemption, this constitutes the development period.

2.6.2 The delay in the settlement. Delaying final settlement for over 20 years appeared impractical and an early settlement was considered to be in the best interest of all parties.

2.7 Countryside's revised proposal reduces the sales values by £2.6m, which is deemed, by Strutt and Parker, to be the difference between the market value of the properties against the Gross Development Value. This revised offer, to some extent, departs from the terms of the overage agreement, which envisaged overage being paid at two points in time, now and in circa 20 years' time which, officers would suggest, is something both the Council and Moat would now wish to avoid. Instead the revised proposal is for settlement of overage by a single payment now, dispensing with the final calculation and payment. Also, it departs insofar as Countryside's profit is calculated on the lower value attributed to sales but with the equity loans excluded from land and works scheme costs (i.e. equity loans are not considered in the calculation at all). This has resulted in an improved offer of £766,000, £186,000 higher than that made originally. This is shown in the initial payment table at column 3.

2.8 Even if Countryside were to accept Moat's contention that interest should not be chargeable (i.e. what the original offer would be if revised to exclude Countryside's interest), the future value of the equity loans could be estimated at £5.0m. This assumes 3.5% HPI (national long term average), the starting value being equal to GDV (i.e. to adjustment for the Strutt and Parker findings) and no defaults. Moat's share would then be £1.3m. Discounted at 7.5%, this is £221,000, making the combined present value of £801,000, only £35,000 higher than the current offer. This is shown in the 'final payment' table at column 2.

2.9 Other methods of calculating the overage were considered. For example, the possibility of selling the equity loans to a third party was also discussed with Countryside, but they were reluctant to consider this as the amount of such loans attributable to the Christian Fields development (£2.9m), represents a small proportion of the total number of equity loans held by them and a sale would have to be at a considerable discount to the nominal value, which would then have to be written off.

2.10 There appear to be few, if any, instances of house builders selling equity loans. From discussions with agents, similar transactions have traded at considerable discounts (50-90%), dependent upon the location. They are unlikely to be attractive to investors as they provide no income with any return being based entirely on future house price increases and ranks below bank mortgage. This portfolio has a number of things working against it, including the very long maturity for at least half the properties and the location, not being prime central London sites. As an example of this, in August 2011 it was reported that Barratts had appointed advisors for the sale of part of their £170m equity loan portfolio. The decision to sell was reversed by November.

2.11 The tables below seek to illustrate this analysis:

| | **1** | **2** | **3** |
|---|---|---|---|
| **Initial payment** | **Initial offer (£,000s)** | **Excluding interest (£,000s)** | **Revised offer (£,000s)** |
| Sales | 34,173 | 34,173 | 31,552 |
| Less: | | | |
| Land and works costs | (25,633) | (25,633) | (22,714) |
| Development interest | (409) | (409) | (409) |
| Countryside margin | (5,809) | (5,809) | (5,363) |
| Additional value | 2,322 | 2,322 | 3,066 |
| Moat share (25%) | 580 | 580 | 766 |
| Gravesham share (25%) | 580 | 580 | 766 |

| | 1 | 2 | 3 |
|---|---|---|---|
| **Final payment** | **Initial offer (£,000s)** | **Excluding interest (£,000s)** | **Revised offer (£,000s)** |
| Redemption (at 3.5% HPI) | 5,025 | 5,025 | N/A |
| Less: | | | |
| Interest | (2,569) | | |
| Surplus | 2,456 | 5,025 | |
| Moat share (25%) | 614 | 1,256 | |
| Gravesham share (25%) | 614 | 1,256 | |
| Discounted at 7.5% | 108 | 221 | |

## 3. Conclusions and recommendations

3.1 The analysis provided by Moat has been considered by GBC legal and finance staff, all of whom are supportive of the conclusions reached.

3.2 It is therefore recommended that the enhanced offer of £766,000 made by Countryside is accepted.

## 4. Background Papers

4.1 There are no background papers pertaining to this report.

<table>
<tr><td>IMPLICATIONS</td><td colspan="3">APPENDIX 1</td></tr>
<tr><td>Legal</td><td colspan="3">Whilst the proposed basis for payment of overage is different, in part, from the basis outlined in the overage agreement, Moat’s analysis of the offer outlined in this report, indicates the benefits to the Council, should it wish to accept this revised offer.<br><br>These are that the parties agree the interpretation of the overage agreement now, (thus avoiding delay in reaching agreement without any certainty that a better outcome could be achieved); that an increased sum is paid now, in place of a lower payment now and an uncertain amount payable on redemption of equity loans in the future.</td></tr>
<tr><td>Finance and Value for Money</td><td colspan="3">Countryside’s initial proposal included £2.9m equity loans as a cost to the project (shown in columns 1 and 2 of land and works costs in the initial payment table). Gravesham’s share (25%) amounted to £580,000. Countryside’s revised offer has a reduced sales value of £2.6m, which is the difference between the market value of the properties against the Gross Development Value and does not include equity loans of £2.9m. This has resulted in a revised offer of £766,000 (an increase of £186,000 from the original offer).<br><br>Advice was sought from CLG as to whether the money received from Countryside needed to be considered for the pooling return and whether it could be used for other than housing or regeneration. The reply from CLG stated that this is a housing capital receipt which is not poolable and, if the authority decides to use it for other than housing purposes, then that needs to be reflected in the Capital Financial Requirement (CFR). The CFR reflects the local authority’s underlying need to borrow for capital purposes. If the receipts are used to fund General Fund capital programme items then the HRA CFR will decrease and the General Fund CFR will increase. As the authority uses one pool for loans this means that the HRA will pay less interest for the loans and the GF interest payable will increase.</td></tr>
<tr><td>Risk Assessment</td><td colspan="3">None identified.</td></tr>
<tr><td rowspan="4">Equality Impact Assessment</td><td colspan="3">Screening for Equality Impacts</td></tr>
<tr><td>Question</td><td>Answer</td><td>Explanation</td></tr>
<tr><td>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?</td><td>No</td><td></td></tr>
<tr><td>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?</td><td>No</td><td></td></tr>
</table>

| | | | |
|---|---|---|---|
| **Equality Impact Assessment (cont.)** | c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above? | | N/A |
| | *In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above* | | |
| **Corporate Business Plan** | Strategic Objective 2 – Housing<br>Strategic Objective 5 – Managing the council's business responsibly | | |
| **Crime and Disorder** | None identified. | | |