

**CABINET**

**28 MAY 2019**

**KEY DECISION NO**

**COUNCILLOR MARTIN TENNANT  
MAJOR PROJECTS AND PROPERTY  
PORTFOLIO HOLDER**

**REPORT NO. RP1913**

**KPI LIMITED – ALTERATION TO DEVELOPMENT AGREEMENT**

**EXECUTIVE SUMMARY:**

The Council has been approached by the Developer to agree an extension to the long-stop dates for completion of Blocks 3 & 4 in the redevelopment of Farnborough Town Centre. The Council as freeholder of the sites retains step-in rights should completion not be achieved by the target dates. In light of recent progress with Block 3 it is reasonable to agree the proposed amendments to achieve completion of the phased delivery of the scheme.

**RECOMMENDATIONS:**

It is recommended that the Cabinet should approve the proposed amendment to the Development Agreement between the Council and KPI Ltd and St Modwen that would allow the longstop date for Block 3 to be 31 October 2021 and in relation to Block 4 for work to be commenced within one year of the practical completion of Block 3 with Block 4 to be completed within 2 years of commencement of work on it, with a longstop date of 31 October 2024.

**1. INTRODUCTION**

- 1.1 This report seeks authority to agree an amendment to the Development Agreement relating to Kingsmead, The Mead, Firgrove Court and land at Queensmead, Farnborough, Hampshire to provide extended long stop dates for Block 3 and Block 4 of the scheme.

**2. BACKGROUND**

- 2.1 Key Property Investments (KPI) Limited, is seeking a further amendment to the existing Development Agreement with Rushmoor Borough Council in order to enable additional time to complete the development of Block 3 and provide a further long stop date for completion of Block 4, linked to completion of Block 3, which would conclude the outstanding phases of the Farnborough Town Centre North Queensmead redevelopment.

- 2.2 Outline planning permission was originally granted for a major redevelopment at the northern end of the town stretching across from Queensmead to Firgrove Court and the Kingsmead car park in July 2003. Full planning permission (04/00080/FUL) was subsequently granted on 24<sup>th</sup> November 2004 for the following:

*Demolition and redevelopment to provide retail (A1/A2/A3) space including new superstore, commercial leisure (D2), office (B1a), hotel (C1) and residential accommodation (C3) together with associated provision for access, servicing, parking and landscaping at Kingsmead, The Mead, Firgrove Court and Land at Queensmead, Farnborough*

- 2.3 Rushmoor Borough Council, as the freeholder of the site, entered into a Development Agreement with KPI Ltd and St Modwen at the outset of the development scheme. A key component of that agreement is the ability for the Council to 'step in' at a certain point should the development be stalled. Step-in rights would enable the Council to step in to the shoes of another party, in this instance KPI Ltd, in relation to the obligations of the Development Agreement and appoint a new development partner to complete the scheme. The current agreement includes a step-in date of March 2021.
- 2.4 The proposals were broken down into 4 phases of development, referred to as Blocks 1-4. Blocks 1 and 2 have been completed and consist of the Sainsbury's superstore, Travelodge hotel, Wetherspoons public house and town centre retail units alongside residential apartments above. A planning application for a revised Scheme for Block 3 was submitted in February 2019 and has been approved subject to completion of a Section 106 Planning Obligation.
- 2.5 Progress is now being made on the delivery of Block 3. The developer has commenced work on the site but more comprehensive start up and progression on site is subject to the Council agreeing the revised long stop dates.
- 2.6 Some of the delay in getting to this stage can be attributed to the impacts of the financial recession. Further to this, there was a concerted effort to avoid higher 'void rates' within the town centre, which would have been the case had additional units been delivered whilst still seeking tenants for Blocks 1 and 2.

### **3. DETAILS OF PROPOSED COURSE OF ACTION**

- 3.1 KPI Ltd has requested an amendment to the Development Agreement that would allow for an extension of the long stop date to allow for completion of the entire Scheme in a coherent manner allowing for the risks around retail decline and the property slowdown in recent years. The Longstop Date for Block 3 is proposed to be 31 October 2021. The proposals in relation to Block 4 are for work to be commenced within one year of the practical completion of

Block 3 with Block 4 to be completed within 2 years of commencement, with a longstop date of 31 October 2024.

- 3.2 The Council is keen to support the continued implementation of the consented scheme with KPI Ltd as the preferred development partner, particularly given the real progress in bringing forward Block 3 this Spring.
- 3.3 It is clear that the current long stop date of 25 March 2021 is not achievable notwithstanding the start on site and the imminent granting of planning permission (once the s106 is completed) for a revised scheme. If the extension is not agreed this will jeopardise progress on delivery of the phases 3 & 4 due to the uncertainty on delivery and the Council is keen to work proactively with KPI Ltd to ensure successful delivery of the scheme.
- 3.4 In order to protect the Council further KPI / St Modwen has agreed to pay the sum of £100,000 by way of a deposit to the Council returnable once a contract has been let for the construction of Block 3.

#### 4. **IMPLICATIONS**

##### **Risks**

- 4.1 Whilst the economic climate is challenging there is a risk of further delay however the Developer has progressed the planning application for Block 3 and is currently actively progressing the negotiations and pressing for completion of the required s106 planning obligation which is very near to conclusion. In addition, the Developer has committed to paying the Council £100,000 should the build not progress in a timely manner. Thereafter, the Council maintains its step-in rights which is an added incentive to the Developer to progress matters.

##### **Legal Implications**

- 4.2 An agreed amendment to the Development Agreement is required to provide the time for completion of Blocks 3 and 4 in a phased way with the Council still retaining control through the step-in rights which would be fully preserved.

##### **Financial and Resource Implications**

- 4.3 An agreement on amended long stop dates maintains the positive relationship with the Council's development partner and facilitates a more managed approach to the Council's need to step in should that arise in the future. Block 3 is a bigger site and building project than Block 4 so it is in the Council's best interests to facilitate progress with that site now. If the trigger for progress on Block 3 is not met the Council has the benefit of the payment of £100,000 from the Developer to help mitigate the financial risks should step in rights require to be invoked.

## **Equalities Impact Implications**

4.4 None.

## **BACKGROUND DOCUMENTS:**

Farnborough Town Centre Plan showing Block 3 and Block 4

## **CONTACT DETAILS:**






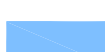
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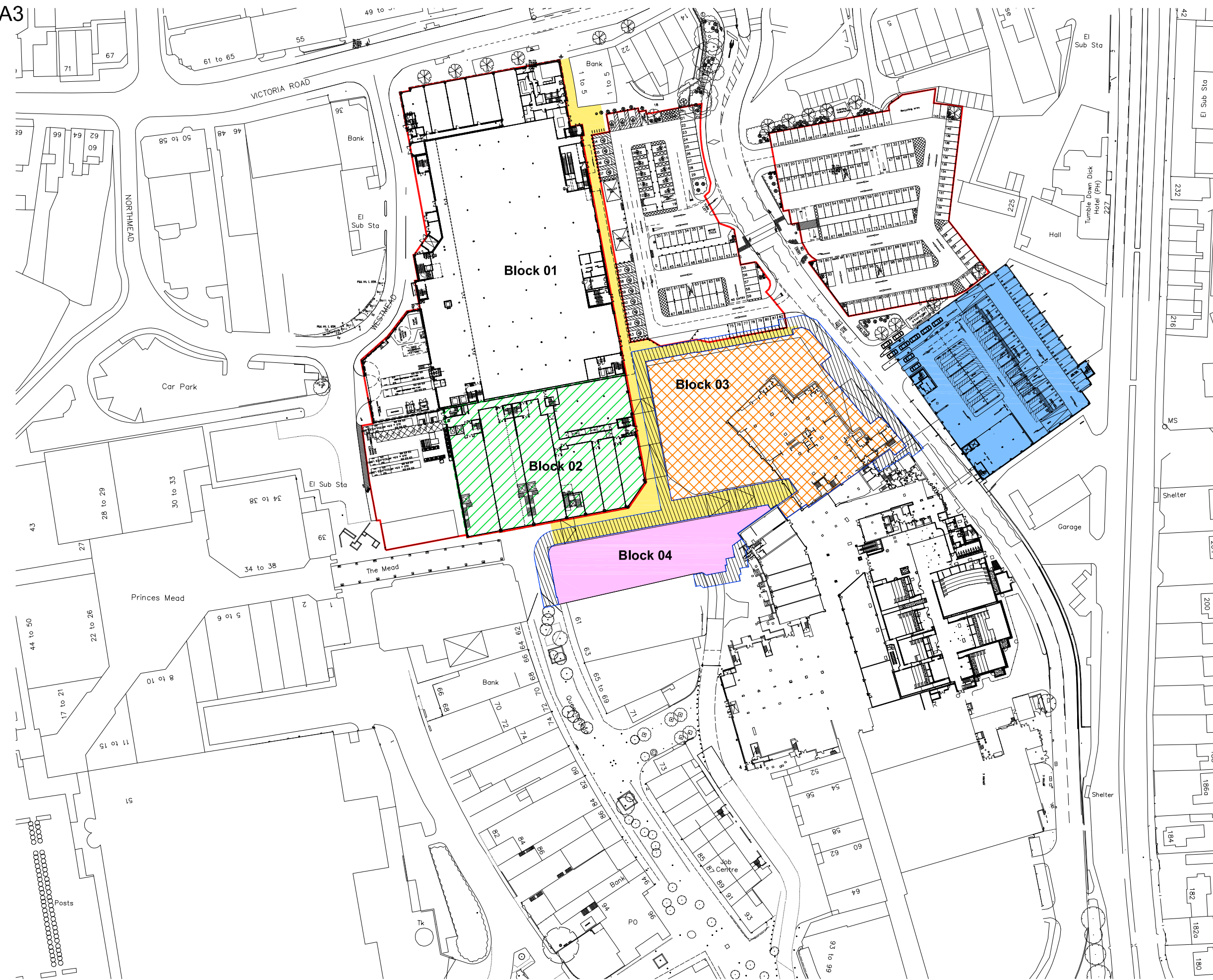
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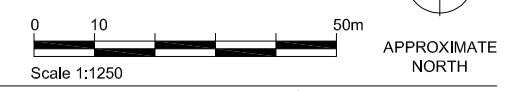
Client  
ST MODWEN

DRAWING KEY:

-  Access Ways serving Block 1, 2 and 3
-  Zone of car park deck above Block 2
-  Extent of Block 3 Proposal
-  Extent of consented Block 4
-  Construction zone for Block 3 and 4
-  Existing 'The Meads Shopping Centre Car Park'



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