

**Report to:** Cabinet

**Date of Meeting:** 6 March 2019

**Public Document:** Yes

**Exemption:** None

**Review date for release** None



**Agenda item:** To be completed by Democratic Services.

**Subject:** Exmouth Queen's Drive – Watersports Centre Development

**Purpose of report:** To advise Cabinet of the latest position on the development of the Watersports Centre on Exmouth seafront and seek approval of the terms of variation to the completed Development Agreement and delivery timescale negotiated between the Council and Grenadier Estates.

This is a late report. The timing is necessitated by the negotiation process between the council and Grenadier Estates having reached a satisfactory conclusion as late as Monday 4 March 2019. Officers are conscious of members' concern to see outstanding conditions resolved and therefore would like Cabinet authorisation to complete the agreement promptly. This also allows Grenadier to finalise their construction contracts and mobilise in readiness for a prompt start on site once the new road and car park are completed in June 2019.

**Recommendation:**

- 1. Cabinet authorises the revisions to agreement as detailed in this report together with related consequential and minor amendments**
- 2. Cabinet authorises the Deputy Chief executive to complete the revisions to the Development Agreement contemporaneously with Grenadier confirming discharge of the conditions precedent.**

**Reason for recommendation:** With cabinet agreement the Council and Grenadier Estates can conclude all outstanding matters and confirm the timescale of investment in and delivery of the Watersports Centre, associated leisure and retail uses and a new public space on Exmouth seafront.

This will enable the Watersports Centre site development to begin in summer 2019 with a view to completion within 12 months following the council's completion of the new road and car park in June 2019.

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Deputy Chief Executive

**Financial implications:** The proposed agreement in this report mitigates against the risk of additional financial costs arising from delays proceeding to the development of the Watersports Centre. Additionally, it should be noted that the proposed use of the revenue from the 37 public car park spaces will bring forward the timescale for the realisation of a

community benefit, but does not provide a direct financial return to the Council. Members will need to agree to this approach.

**Legal implications:** Legal Services have been involved in the ongoing negotiations relating to the Deed of Variation which will vary the Development Agreement and the subsequent Lease thereby enabling the development of the Watersports Centre to be agreed and delivered. Legal advice is that the Council can enter into a Deed of Variation that must be contemporaneous with the completion of the conditions outstanding under the First Conditions Precedent.

This ensures that Grenadier Estates are legally committed to taking the Lease once the Council's road and car park works have been completed (this is the Second Conditions Precedent).

**Equalities impact:** Low Impact

**Risk:** Medium Risk

The council and Grenadier have agreed outstanding matters including arrangements for public car parking on the site, delivery of the beach access ramp and delivery timescale.

EDDC will complete the new road and car park in June 2019 enabling Grenadier to get on site therefore risk will then transfer to their role in developing the site and delivering the buildings and public realm for phase 2.

**Links to background information:** None

**Link to Council Plan:** Developing an outstanding economy  
Developing an outstanding environment

## Report in full

As part of the phasing of development and in keeping with the original master plan, Grenadier Estates was selected to deliver the Watersports Centre element of the master plan vision on the Queen's Drive site. Cabinet has previously agreed Head of Terms with Grenadier Estates regarding delivery of a water sports centre. The Council entered into the Development Agreement with Grenadier Estates on 23rd August 2017. This Agreement committed Grenadier and the Council to complete certain conditions precedent in a set order. The first of these was that Grenadier should secure a detailed planning permission which they did in June 2018.

On 31 October 2018 Cabinet agreed to commence the construction of the new road and car park on Queen's Drive to make way for the follow-on development of the Watersports Centre and associated mix of food and drink, retail and a new seaside public space joining the development to the beach.

This commencement of works was approved so as to ensure that the works were done as early as possible to avoid or minimise disruption in the holiday season, recognising the danger of delay and cost overrun in the full knowledge of the risk associated with Grenadier Estates, at that time, not having complied with all conditions precedent nor having committed to delivery.

Since the commencement of the new road and car park construction the council has been in negotiation with Grenadier Estates to resolve outstanding matters in relation to the existing Development Agreement so that Grenadier can confirm satisfaction of the conditions precedent

and can get on site smoothly after Phase 1, the new road and car park, are completed. During this time Grenadier has announced that the development will include a food and drink offer by Michael Caines and the water sports activities will be operated by Edge Watersports.

Grenadier have separately been pursuing an appeal against the Community Infrastructure Levy (CIL) sought by the East Devon Planning Authority for the development following the grant of their planning permission. This has been a reason why further progress on concluding outstanding conditions precedent to the Development Agreement has not moved as swiftly as the council (as landowner) had hoped. Grenadier have succeeded in their appeal and the outcome is that this development will not be subject to a CIL charge. Grenadier are now focused on concluding all the conditions precedent and determining their development timetable. The conclusion of the CIL appeal process has assisted in moving forward the finalisation of conditions precedent to allow Grenadier and EDDC to reach agreement and the Watersports Centre development to start.

The following are the details of remaining conditions that officers feel have now been resolved satisfactorily with Grenadier which will mean that Grenadier will confirm that conditions precedent have been satisfied and take the lease from EDDC thereby allowing the development to begin:

1. **Development Timetable** – EDDC have negotiated that the target date for completion of development will be one year from the granting of a lease. It was originally set at four years. With the approval of this report and recommendations Grenadier estates have confirmed their willingness to commence construction this summer with a view to the Watersports Centre being operational before summer 2020.

This one year timetable carries with it a force majeure clause which allows for a longstop date of three years from grant of lease. This is a reasonable and usual condition in that, worst case scenario, were the construction to suffer a certain event such as fire or severe storm damage then further time would be needed to recover and complete the project.

The target and longstop dates are a significant shortening and improvement on previous timelines for start and completion of construction.

2. **Public Car Parking** – In the original agreement with Grenadier Estates the design was for a larger built development with less parking and with the spaces specific to staff and centre users. As the design has evolved and in response to public consultation, circa 37 public car park spaces have been designed into the site. Negotiation has been ongoing regarding the nature of the parking spaces, their management and the use of the revenues generated from charges.

The outcome, which is satisfactory to the council, is that the revenues from parking charges will initially go to pay off the capital investment into the project by Grenadier (and only to Grenadier) along with other revenues from the operation of the Watersports Centre. This will be for a number of years until such time as the capital investment is repaid. After that the revenues will go to the Community Interest Company (CIC) running the Watersports Centre and wider facilities. This means that revenues will then be able to be invested in community benefits determined by the CIC.

With the parking charge revenue helping to meet the repayment of investment Grenadier Estates have calculated that the receipts will enable the repayment period to reduce from 15 to 12 years. In other words the CIC will take over the head lease of the Watersports Centre and financial control and will be able to begin investments of community benefit three years earlier. After the final repayment is made then parking charge revenues along with other revenues will be available for the CIC to control and invest to local benefit. In addition, it has been negotiated that any element of the agreement that could have given Grenadier a right to assign the lease to someone other than a group company or the CIC has also been removed to provide additional protection for the income generated.

The user clause is being varied to allow pay and display. We as the council can if we wish negotiate to manage the car parking, although as this is outside the scope of this report this will need to be done separately.

3. **Beach Access** – Aligned with the development of the Watersports centre is the need for the construction of a ramp to enable access to the beach for water sports participants and their equipment. This has been the subject of negotiation with Grenadier within a beach access agreement.

It was intended that there would be a separate Beach Access Agreement which would facilitate Grenadier's construction of the Beach Access Ramp, however the Council's lawyers have suggested that as the ramp is to be built outside of land that is being demised to Grenadier that it would be preferable to deal with it by way of a variation to the Development Agreement and the lease that is to be entered into.

Negotiations to agree the wording have now concluded and, subject to Cabinet's approval, Officers would like to be able to complete the outstanding documents as soon as possible.

The agreed provisions in respect of the Beach Access Agreement mean that there are no significant changes to what was intended previously. Grenadier have agreed to bring forward the date by which it is required to deliver the ramp. This has been brought forward to 12 months from the date that the lease is completed (as opposed to 14 months from practical completion of the Watersports Centre). Also the longstop date for delivery of the ramp has been brought forward to 2 years from the date that the lease is completed rather than 2 years from practical completion of the Watersports Centre. This ensures that the overall development will be brought forward in a timely manner and the ramp linking the Watersports Centre to the beach will not be delayed.

4. **Other matters relevant to satisfying conditions precedent that have been resolved / addressed but which require formal written confirmation:**

- i. Highways agreement– this has been completed
- ii. Site surveys – Grenadier have confirmed that the outcomes of surveys are satisfactory
- iii. Potential for legal challenge – Grenadier have assured themselves and EDDC on the acceptability of any risk in this regard

### **Completion of documentation**

It is important that Cabinet considers and decides on the recommendation to enable ourselves and Grenadier Estates to conclude variations to the Development Agreement on the basis of the details described in this report. Time is pressing and the Council has been keen to make progress and see the Watersports centre and further development happen. The variations to the Development Agreement will be concluded contemporaneously with Grenadier confirming satisfaction of the conditions precedent which will ensure that they are bound to take the lease of the site when the road and car park works are completed.

### **Conclusions**

The council is on target to complete the new road and car park by 19 June 2019. Once the council's road and car park works are completed then under the revised Development Agreement Grenadier Estates will be required to accept the lease for the Watersports Centre site from the council within five working days.

This timeline will allow Grenadier, who have entered a pre-construction service agreement with their preferred contractor, to finalise contracts and to get on site and build out in time for the summer season of 2020. This is an especially important timeline for their tenants who, having invested in their new premises, will be business planning and expecting to be up and running in time to make the most of the high season. For EDDC a timeline that involves the Watersports

Centre in place by summer 2020 also assists in our timing for delivery of Phase 3 development on the current Queen's Drive Space and Harbour View sites.

It is important to maintain momentum on Queen's Drive especially once Phase 1 (road and car park) is complete and Phase 2 (Watersports Centre) is underway. Temporary uses will maintain vitality on the seafront for summer 2019 and our work with Hemingway Design and Lambert Smith Hampton on phase 3 will bring forward a mix of long term uses for consideration and consultation in the next few months. Phase 1 will be finished in June and, as detailed above, we expect Phase 2 to get underway in the summer. Phase 3 plans will be moving forward. The new future for Queen's Drive and Exmouth's brighter offer to its visitors and townspeople is moving forward.