

# Executive Report



Delegated Decisions - 12 March 2024

## APPROVAL OF MKDP RESERVED MATTERS

Name of Cabinet Member	<b>Councillor Lauren Townsend</b> (Cabinet member for Resources)
Report sponsor	<b>Michael Bracey</b> Chief Executive
Report author	<b>Catherine Stephens</b> Head of Legal <a href="mailto:Catherine.stephens@milton-keynes.gov.uk">Catherine.stephens@milton-keynes.gov.uk</a> 07443 204584

Exempt / confidential / not for publication	<b>Yes</b>
Council Plan reference	<b>Not in Council Plan</b>
Wards affected	<b>All wards</b>

### Executive Summary

Milton Keynes Development Partnership LLP ('MKDP') is a limited liability partnership whose partners are Milton Keynes City Council (MKCC) (owning 99.9%) and DEVELOPMK Limited (owning 0.1%). The relationship is governed by a Members Agreement.

The Members Agreement contains a list of activities called 'Reserved matters' that cannot be carried out by MKDP without the unanimous agreement of the LLP Members. If MKDP wants to pursue a RM, it must get written approval from MKCC before proceeding. This report seeks that approval.

The Reserved Matter for this report is there being a material change to the MKDP Business Plan which was approved by MKCC on 25 July 2023: the MKDP Business Plan 2023-2027 (the Business Plan). The request is triggered by MKDP's decision that this amounts to a material change in the Business Plan.

The change in the Business Plan relates to dealing with 78 units at Kents Hill Park. The Business Plan anticipated them being placed in the Milton Keynes Housing Company (MKHC) whereas MKDP requests approval to dispose them to a Registered Provider of social housing instead (Registered Provider). This position reflects significantly changed market circumstances and delivers a superior solution which continues to achieve an increased level of affordable housing delivery, standard of accommodation and control of tenants.

The specific changes and supporting business case are commercially sensitive and therefore exempt from publication, but are provided within the **exempt annex**.

## 1. Proposed Decisions

- 1.1 That the public and press be excluded from the meeting by virtue of Paragraph 3 (Information relating to the Financial or Business Affairs of the Authority) of Part I of Schedule 12A of the Local Government Act 1972 in order that the meeting consider the **exempt annex** to the report.
- 1.2 That the material change in the MKDP Business Plan 2023 -2027 which allows the 78 units in Kents Hill Park to be sold to a Registered Provider, be approved.

## 2. Reasons for the Decision

- 2.1 At its Board meeting on 16 January 2024, MKDP decided that 78 residential units at Kents Hill should be sold to a Registered Provider instead of being placed in the MKHC. The terms of this arrangement are commercially sensitive and are contained in Annex A. MKDP also decided that this was a material change in the Business plan triggering the request to MKCC for approval of a Reserved Matter.

## 3. Background to the Decision

- 3.1 The Business Plan contemplated the Kents Hill Park units being placed in the MKHC to 'give the Council certainty that the homes will be managed as affordable housing for the entire length of the lease and provide protection on rents, value for money, viability and the standard of services delivered to MKHC's residents'. This would require a loan from MKCC to fund the purchase of the units by MKHC.
- 3.2 Due to the rapid increase in interest rates leading to a difficulty in agreeing a finance rate with MKCC (and therefore a premium for the long leasehold interest for the properties at Kents Hill Park), MKDP invited offers from external Registered providers for the Kents Hill Park units to demonstrate the expected current value of the plots as a comparison with the MKHC proposal.
- 3.3 When these bids were compared against the MKHC proposals, they were found to be significantly better financial proposals than placing the units in the MKHC. It appears that the bidders are utilising finance that is significantly cheaper than MKDP's cost of capital which is leading to a significant gap between their bids and that of MKHC. This prompts future consideration of the suitability of having a MKHC due to a reduced pipeline and future short term financing difficulties.
- 3.4 Significantly, this proposal maintains the social value that placing the units in MKHC would provide:
  - (a) **Increased Affordable Delivery** - 46% of the Kents Hill Park site will be affordable tenure.

- (b) **Increased Affordable Delivery** - almost half of the affordable to be Social Rented, the remainder Affordable Rent.
- (c) **Increased Standard of Affordable Accommodation** - all affordable plots to be built to Future Homes Standard ahead of building regulation changes.
- (d) **Control of Tenants** - full nomination rights for MKCC in perpetuity, controlled through the ground lease.

3.5 Given the strength of the market response, it appears that a disposal is likely to be the most appropriate route and that not proceeding would lead to subsidy control difficulties and a risk of challenge. MKCC colleagues in planning and housing confirm that this level of affordable rent, and particularly social rented, housing is unprecedented in Milton Keynes. It reflects market conditions: the deal with a private developer at the peak of the private residential market and the current timing of some of the local Registered providers needing to spend grant money before 2026. This should be considered a successful outcome that far exceeds the MKHC proposal for this site.

#### 4. Implications of the Decision

Financial	Y	Human rights, equalities, diversity	
Legal	Y	Policies or Council Plan	Y
Communication		Procurement	
Energy Efficiency		Subsidy	
Workforce		Other	

##### (a) Financial Implications

The financial implications of approving this reserved matter are that this decision will generate additional funding that can be reinvested for public good and to assist with the LLPs objectives.

##### (b) Legal Implications

The requirement for MKCC approval for a Reserved Matter is set out in the Members Agreement. MKCC are able to take this decision if they are satisfied that the material change continues to deliver on the objectives of MKDP.

The intention in the Business Plan to place the units in the MKHC was highly likely to engage the Subsidy Control Act 2022 but if the Reserved Matters is approved that will no longer be a legal consideration.

#### 5. Alternatives

5.1 To refuse to approve the material change within the MKDP Business Plan (which will mean the housing stock is held by the LHC) which is not recommended as it gives MKDP some potentially insurmountable challenges in both financial and broader commercial terms, and which could be unlawful if Subsidy Control provisions were not followed.

5.2 To take no decision which is not recommended as best practice for good governance of Local Authority Owned Companies would support appropriate consideration of decisions as required by the governing documents of the companies concerned.

## 6. Timetable for Implementation

6.1 Immediately upon decision.

---

### List of Confidential Annexes

Annex MKDP Board Report, 19 December 2023

### List of Background Papers

Members Agreement

Milton Keynes Business Plan 2023- 2027