

A separate report is submitted in the private part of the agenda in respect of this item, as it contains details of financial information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972. The grounds for privacy are that it refers to the identity, financial and business affairs of an organisation and the amount of expenditure proposed to be incurred by the Council under a particular contract for the supply of goods or services.

3rd October 2018

Name of Cabinet Member:

Cabinet Member Jobs and Regeneration – Councillor J O’Boyle

Director Approving Submission of the report:

Deputy Chief Executive Place

Ward(s) affected:

St Michaels

Title:

Release of Restrictive Covenant regarding land at Gulson Road, Coventry

Is this a key decision?

No

Executive Summary:

The Council previously sold 0.34 acres of land in 2015 at Gulson Road for the use of car parking in association with the Elliot’s Car accessories retail unit. A restrictive covenant was agreed between the parties that restricted the purchaser and any future successors in title on the following basis:-

“not to erect or build or permit to be built or erected any temporary or permanent structure on the property and use of the Land for car parking and general amenity use only”

The landowner Rainer Developments is proposing a comprehensive redevelopment of the site including the land that was previously sold. A resolution to grant Planning Permission was agreed for the site (pending the applicant signing the S106 agreement) and has proposed a residential apartment block for 30 units on former Council land within the larger site of which 167 apartments and a retail/café unit are planned. However the block of 30 units cannot be developed without the release of the restrictive covenant.

Following lengthy negotiations, a value has been agreed for the release of the restrictive covenant. Due to the close proximity of the site to Coventry University and the potential for student housing, a further restrictive covenant will be placed limiting the site to private residential only excluding all types of student accommodation.

Recommendations:

Cabinet Member for Jobs and Regeneration is requested to:-

- (1) Approve the release of the restrictive covenant to Rainer Developments at the agreed value.
- (2) Delegate authority to the Director of Property Management & Property Services following consultation with the Cabinet Member for Jobs and Regeneration for any subsequent variation in terms.
- (3) Delegate authority to Legal Services Manager to execute all the necessary documentation for the Deed of Release

List of Appendices included:

Site Plans – Land at Gulson Road

Background papers:

None

Other useful papers:

Planning application FUL/2018/1300 -
<http://planning.coventry.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=796260>

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

1. Context (or background)

- 1.1 The land at Gulson Road comprises approximately 0.34 acres and is shown edged red on the attached plan ("the Land"). The Land was sold in 2015 so that it could be incorporated into the adjoining Elliot's carpark site for additional car parking in association with the retail unit.
- 1.2 Due to the future development potential of the Land being incorporated into the wider adjoining site, it was agreed between the parties at the time of the sale to restrict the use of the Land to the following:-
- "not to erect or build or permit to be built or erected any temporary or permanent structure on the property" and
- " use of the Land for that of car parking and general amenity use only"
- 1.3 In accordance with the restrictive covenants the Land is currently used for car parking and Rainier Developments have obtained planning permission for the development of 167 private residential units on the former Elliot's site (reference FUL/2018/1300) which includes the construction of 30units upon the Land which is subject to the restrictive covenant.
- 1.4 Rainier Developments can only develop the apartment block of 30units providing the restrictive covenant has been released. Following lengthy negotiations a value has been agreed for the release and this has been approved by the Council's Valuation Panel as representing Best Value under Section 123 of the Local Government Act 1972.
- 1.5 The release of the Restrictive Covenant will allow the whole site to be developed for much needed private residential units in the St Michaels ward. Due to the proximity of the land to Coventry University and the potential for additional student housing in the St Michaels ward, to ensure that any development on the Land remains for only private residential units, a further restrictive covenant has been agreed with Rainier Developments to limit the development of the site to private residential and not any form of student accommodation. For avoidance of doubt the restriction applies to the former Council owned land only.

2. Options considered and recommended proposal

Agree to the release of the restrictive covenant

- 2.1 The Land is currently used for car parking and the release of the restrictive covenant will allow the development of an additional 30 private residential units as part of the scheme for sale on brownfield land thus supporting corporate objectives.
- 2.2 Rainier Developments have agreed to pay for the release and the windfall receipt will support Corporate objectives.
- 2.3 **Not to proceed** – If approval is not forthcoming, the Council will lose the opportunity to support housing growth for the City. In addition there would be the loss of a possible capital receipt to support ongoing corporate objectives.

- 2.4 It is therefore recommended that the Council approves the release of the Restrictive Covenant in consideration of the payment.

3. Results of consultation undertaken

- 3.1 The report concerns the release of the restrictive covenant so no consultation would be required however the planning application for the redevelopment of site would have been subject to consultation via the planning process and adjoining occupiers/neighbours/stakeholders would have had the opportunity to make representations.

4. Timetable for implementing this decision

- 4.1 Providing Cabinet Member approval is given, Legal Services will complete the Deed of Release and the consideration for the release will be paid to the Council.

5. Comments from the Director of Finance and Corporate Services

- 5.1 Financial implications
The value for the release of the restrictive covenant to the Council will contribute to the Council's Corporate resources.

- 5.2 Legal implications
The Council is under an obligation to obtain best consideration for land and property disposal transactions in accordance with the requirements set out in Section 123 of the Local Government Act 1972.

The consideration has been approved by the Council's Valuation Panel as representing best consideration under Section 123 of the Local Government Act 1972 and therefore this requirement has been satisfied.

Officers within the Place Directorate (Legal Services) will prepare and complete the necessary documentation in respect of the release of the restrictive covenant for the land at Gulson Road and ensure that the agreed consideration is collected.

6. Other implications

Any other specific implications

6.1 How will this contribute to achievement of the Council's Plan?

The release of the restrictive covenant on former Council owned land will allow the development of housing on brownfield land.

The net capital receipt will contribute towards corporate resources in future financial years.

6.2 How is risk being managed?

The risks have been identified earlier in the report

6.3 What is the impact on the organisation?

Officer time in the Place Directorate will be allocated for the preparation and completion of the Deed of Release for the restrictive covenant

6.4 Equalities / EIA

Not applicable as the proposal is for the release of a restrictive covenant

6.5 Implications for (or impact on) the environment

The subsequent impact on the environment by the release of the restrictive covenant through the redevelopment of a brownfield site for housing will be in accordance with the Councils planning policies for sustainable development.

6.6 Implications for partner organisations?

There are no partner implications

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Enquiries should be directed to the above person.

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