

REPORT FROM: STRATEGIC DIRECTOR

TO: NELSON COMMITTEE

DATE: 7th September 2015

Report Author: Stephen Martens
Tel No: 01282 878935
E-mail: stephen.martens@liberata.com

Land at Bracewell Street, Nelson

PURPOSE OF REPORT

To recommend that Members request the Executive to agree to the release of the restrictive covenant on use and variation to the highway obligation in order that the land can be used for residential development.

RECOMMENDATIONS

1. That this Committee recommends the Executive to authorise the release of the restrictive covenant on use and variation of the highway requirement, subject to satisfactory negotiations with the land owner.
2. If authorised that approval of the consideration, timescales to secure early development and other contractual details are delegated to the Strategic Director.

REASON FOR RECOMMENDATION

The release of the covenant and the variation of the highway requirement will enable the future residential development of the site and generate an additional receipt to the Council.

BACKGROUND

The site was sold by the Council on the 16th May 2008, to Horizon Lancashire Limited Liability Partnership to allow the development of a Community Care Facility (a split level nursing home), in accordance with Planning Consent No. 13/07/0853P (renewed in 2011 with Planning Consent No. 13/11/0448P).

The transfer also required that the owners were required to construct, to adoptable standards, a serviced road 9.5 metres wide from Bracewell Street to a point agreed by the parties to adjoining Council land.

The nursing home has not been constructed and Horizon Lancashire Limited Liability Partnership has ceased trading. The land has recently been sold by the LPA Receiver and purchased by Targetsite Ltd., who has approached the Council for a relaxation of the covenants, so that it may sell on the site to a house builder for residential development.

Issue

The Council originally imposed the covenants on use when the LCC moratorium on constructing new housing was in force, therefore it was sold to allow the construction of a residential care home, which was not prevented by the moratorium.

The covenant relating to the creation of a new highway was to ensure that the adjacent Council owned site retained a viable access to support residential development. The adjacent site in has since been developed with an alternative access and therefore the covenant to create the access way is no longer essential.

With regards to residential development the Council's Planning Officers have suggested that planning consent would most likely be forthcoming for housing use, subject to the submission of an acceptable application.

It would also appear that, should the relaxation of covenant issue be referred through to the Lands Tribunal, it is likely that such a relaxation would be granted in favour of the land owner, leaving the level of compensation payable to the Council to be determined.

Following the lifting of LCC's moratorium on housing development, few such housing developments have been completed within the Borough. Local Authorities are currently being encouraged by Central Government to release sites for residential development.

Following negotiations, Targetsite Ltd, has increased its offer to £20,000, to secure the Council's agreement to relax the covenants by agreement. Targetsite Ltd. have also offered to pay the Council 30% of any "overage" on the sale price achieved for the land above £500,000 (on a transparent open book basis).

In addition to the capital receipts above, should the Council agree to relax the covenants, it would also benefit financially from the receipt of Council Tax payable by new residents and Government incentives for the creation of new homes.

IMPLICATIONS

Policy: The approval of the release from the covenant and the variation to the highway requirement would enable the land to be brought forward for residential development.

Financial: A capital receipt for the Council.

Legal: No legal implications are considered to arise directly from this report.

Risk Management: There are no Risk Management issues for the Council that arise directly from this report.

Health and Safety: See Risk Management

Climate Change: There are no climate change implications arising directly from this report

Community Safety: There are no Community Safety issues that arise directly from this report.

Equality and Diversity: No implications are considered to arise directly from this report.

APPENDICES

Location plan

LIST OF BACKGROUND PAPERS

None