

REPORT FROM: CHIEF EXECUTIVE

TO: POLICY AND RESOURCES COMMITTEE

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THE SUTTON BUILDING, NETHERFIELD ROAD, NELSON

PURPOSE OF REPORT

To update Members as to a new approach from the owners of the above building in relation to their request to relax the Council's covenant on use, and to seek approval from Members as to agreeing a standard relaxation to the covenant allowing any use subject to receipt of planning permission for a change of use. Members are also asked to delegate approval to the Chief Executive to agree or waive a premium payment for the relaxation.

RECOMMENDATIONS

- (1) That this Committee approves the relaxation of the covenant to allow any use subject to receipt of planning consent.
- (2) If the relaxation of the covenant is acceptable to members, that this Committee delegates approval to the Council's Chief Executive Officer to determine the amount of premium payable or waive a premium if the proposed alternative use provides other benefits to the Council and the community or results in positive regeneration, new employment or other beneficial social outcomes.

REASONS FOR RECOMMENDATION

- (1) The relaxation of the restrictive covenant would assist the owner of the building to dispose of its interest and allow a property which has been vacant for three years to be brought back in to use or be re-developed. It may also provide regeneration in an area with a number of existing vacant offices.
- (2) Delegating approval to the Chief Executive to agree the level of premium for the relaxation of the covenant will avoid any uncertainty for a potential purchaser in securing consent from the Council and reduce the risk of the owner/vendor losing a purchaser due to time delays.
- (3) The Council may receive a premium payment to reflect the additional value or benefit to the owner of the relaxation of covenant.

BACKGROUND

1. The land edged black on the attached plan was sold by the Council to Pendle Training in 1997 for £58,880. The sale was subject to a covenant restricting use as an *Industrial training establishment with associated car parking and landscaping or for offices and light industrial processes within classes A2 (financial and professional services), B1 (Business) and B2*. The Innovation Centre and The Sutton Building with car parking were subsequently built on the land.
2. Both properties were offered to the market for sale. The Innovation Centre was sold in 2015. The Sutton Building, formerly occupied by Training 2000, was subject to an offer to purchase by a local developer, who in July 2018 made an offer to acquire the building for use as a *Restaurant with take-away*. This required a relaxation of the covenant to allow the change of use and Liberata Property Services suggested in its report to this Committee that it should request a premium of £50,000 to reflect the value of the benefit to the building owner/vendor. Members agreed to relax the covenant but resolved not to demand a premium as they were keen to secure the presence of the then proposed purchaser. Members however also agreed that if circumstances changed and the sale did not proceed as agreed, then the Council would reserve the right to reconsider the level of premium that should be demanded for the benefit.
3. The proposed sale did not proceed and the asking price for the building has since been reduced from £600,000 to £500,000. It is understood that an offer from Keyline Leisure Ltd has been accepted, for use as a *Training Centre for construction skills and catering with a café and leisure facilities*. The agent acting for the vendor has again asked for the Council to relax the covenant on use, which would also require the submission of a planning application for change of use.

ISSUES

4. The owner/vendor has received a new offer to purchase the building, which the Council is keen to see be brought back in to beneficial use or the site be redeveloped. Any delays in approving a relaxation of the restrictive covenant and agreeing a premium may lead to the sale falling through and the building remaining vacant.
5. Whilst the Council is keen to see the building used or the site redeveloped, the Council also has a duty to manage its land and property assets in accordance with best value to achieve a secure financial return on its investment. Members are advised that the new use proposed is considered to be more valuable to the owner/vendor, than the current permitted use and that again a premium would usually be negotiated to reflect this. There may however be other benefits, created by alternative use of the building, for the Council and local community achievable with a lower or waived premium.
6. If approval is delegated, the Chief Executive would give consideration to the benefits that may arise and agree a level of premium as appropriate. It would also reduce the risk to the owner of losing a sale due to time delays in reporting individual requests to remove or relax the covenant to this Committee.
7. If Members agree the recommendations above and the covenant is relaxed, the Council would still have an element of control on future use in that the covenant would be relaxed on the basis that any use or redevelopment would be subject to the owner applying for and receiving planning consent.

IMPLICATIONS

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

Financial: The Council will receive a premium for an amount determined by this Committee.

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

Risk Management: No implications are considered to arise directly from this report

Health and Safety: No implications are considered to arise directly from this report

Climate Change: No implications are considered to arise directly from this report

Community Safety: The removal of the covenant and disposal of the property would remove the risks of vandalism and bring a vacant building into use.

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

APPENDICES

Location plan

LIST OF BACKGROUND PAPERS

None