

REPORT FROM: CHIEF EXECUTIVE
TO: POLICY AND RESOURCES COMMITTEE
DATE: 16th JANUARY, 2020

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

LAND AT WHITEWALLS DRIVE / GREENFIELD ROAD, COLNE

PURPOSE OF REPORT

To consider a request via solicitors from the owner of the subject site which they acquired from the Council, the Transfer contains obligations and restrictions. The request is that the Council remove/vary the restrictions and gives consent for a different use than that permitted by the Development Brief prior to Planning Permission being obtained.

RECOMMENDATIONS

The Council approves Option 2. that is;

2. Agree to the request which is a variation to the terms agreed in the Transfer in 2001 but request a premium. The amount of the Premium to be negotiated and delegated approval for the transaction to be given to the Chief Executive.

REASON FOR RECOMMENDATION

That a precedent was set previously regarding development of the 'open land' and that the benefit of development of the larger site outweighs the benefit derived from enforcement of the covenant or requirements of the Development Brief. The request would enable a more straight forward future sale. The site would require 'planning permission' but would not then need to obtain the Councils approval following planning as prescribed in the original Transfer.

BACKGROUND

The subject sites together with other adjacent parcels of land were considered in various reports to determine the sites future use by the Development, Highways & Transport Committee in 1989/90.

Following Committee approvals regarding use a Development Brief was written by Donaldsons in 1998 for the site identified on the attached plan edged black.

Outline Planning Permission for development of Hotel/Motel with A3 Uses (Restaurant/Pub) was submitted in August 1998 (Application No. 13/98/0431P). The site was advertised and marketed November 1998 and following negotiation breakdowns re-advertised in August 2001, though a number of sets of particulars were sent out only one offer was received. Confirmation of the offer

price and the restricted use of the site were confirmed to the proposed purchaser and the sale completed to R B Business Park Ltd. on 10th October 2001.

Planning Permission was granted for a Garden Centre 18th December 2015 (Ref: 13/13/0593P) which did not comply with the Development Brief and included land within the 'Open Area' shown cross hatched on the attached plan. This would indicate that in terms of Planning the site may be suitable for other uses and the Council under the terms of the Transfer must then grant consent. The Garden Centre development has not proceeded but in order to be compliant the land owner would have required both consent for the use which is not permitted by the Development Brief (written 20 years ago) and consent for use of land identified as Open Area - '*such consent not to be unreasonably withheld or delayed*'.

ISSUE

The Council has 3 options;

1. Note the request, but maintain the requirement to obtain written consent from the Council following Planning Permission being granted - (such consent shall not be unreasonably withheld or delayed).
2. Agree to the request which is a variation to the terms agreed in the Transfer in 2001 but request a premium. The amount of the Premium to be negotiated and delegated approval for the transaction to be given to the Chief Executive.
3. Agree to the request to remove and vary conditions contained in the original Transfer but to waive any premium that could be sought.

There are two issues:

1. That development must be as per the Development Brief prepared 20 years ago unless planning permission is granted and consent for the different use is granted by the Council Transferor – '*such consent shall not be unreasonably withheld or delayed*'. This may cause issues with interested developers and delay negotiations and development of the site.
2. The Open Areas will be dealt with under the Planning Policy for any future planning applications submitted - '*such consent shall not be unreasonably withheld or delayed*'. The request only relates to the Open Area bordering the roundabout (shown cross hatched on the plan).

IMPLICATIONS

Policy: The Development Brief required specific use of the site and an 'Open Area' restriction on two areas within the site. There is currently a process for these following Planning Permission to obtain consent from the Council – the request is that the 'Use' clause is removed and the Open Area' clause varied.

Financial: If the request is accepted then a capital receipt may be obtained.

Legal: The Transfer currently contains a requirement to obtain the Council's consent following Planning Permission being obtained. If approval to the request is given the documentation would be required to vary the Transfer to remove and vary the pertinent restrictions giving consent prior to Planning Permission.

Risk Management: N/a

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

Climate Change: N/a

Community Safety: See risk management.

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

APPENDICES

Location Plan with Open areas identified.

LIST OF BACKGROUND PAPERS