

REPORT FROM: DIRECTOR OF RESOURCES

TO: EXECUTIVE

DATE: 28th November, 2024

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TRANSFER OF LAND AT COTTON TREE LANE, COLNE.

PURPOSE OF REPORT

To seek approval to transfer of an area of land with existing access rights to the covenantee at the above location.

RECOMMENDATIONS

- (1) That Members of the Executive approve the transfer of the parcel of land to the covenantee at nil consideration.
- (2) That authority to agree terms and conditions of the transfer be delegated to the Director of Resources.

REASONS FOR RECOMMENDATIONS

- (1) To provide a safer and wider access across the land and bridge in question to the site beyond and to avoid the necessity for the Council to enter into a joint S38 agreement with the covenantee and the Highways Authority, as freeholder.
- (2) To ensure that sufficient strength of covenant is maintained to avoid and protect the Council from any potential claims or future costs.

ISSUE

1. The land as shown edged blue on the plan shown within the appendices, is owned by the Borough Council. Rights of access to cross the land and rights to construct and retain a vehicular accessible bridge across the river were granted by Colne District Council, when it sold the land beyond to MAL Engineering (now ELE). The freehold interest in the Council's retained land transferred to Pendle Borough Council upon re-organisation and the access rights granted within the transfer now lie with McDermott Homes Ltd., following their acquisition of the site from ELE.

2. Members were advised in previous reports that ELE were actively encouraged by the Council to relocate their operations onto the Lomeshaye Phase 1 CPO site, to retain them as a high quality employer within the Borough and to assist with their expansion plans. This was on the basis that it would also allow them to redevelop their Cotton Tree Lane site, removing a manufacturing facility from a semi-rural location and allowing them to invest the receipt from the sale of the land into their new manufacturing operation.
3. As part of the Planning Consent granted for redevelopment, the Highway's Authority require McDermott Homes to widen the existing bridge access and the road access into the site. The Executive at its meeting earlier this year resolved to grant consent to widen the footprint of the access and bridge and record this expanded area as an amendment to the original transfer documents. This was at nil consideration.
4. However, if the Council retained its freehold interest in the land on which the access and bridge sits, it would appear that the Council would also have to be party to the S38 Agreement, relating to the upgrading and adoption of the bridge and access road, by the Highway's Authority in readiness for it to be adopted, which may potentially be onerous.
5. To avoid any requirement for the Council to enter into any agreements with the Highway's Authority, or potentially incur any potential liabilities with any warranties being required in relation to the works being undertaken, a more sensible option would be to transfer the land in question to McDermott Homes, again at nil consideration, and they then be solely liable for the land and bridge crossing the river. They would then complete the works to an adoptable standard and enter into the required agreements with the Highway's Authority.
6. McDermott Homes have agreed to bear any costs and fees that the Council may incur in documenting such a transfer. Continued access for the Council and local residents to the open countryside beyond would also be secured across the bridge.

IMPLICATIONS

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

Financial: A transfer of the access road and bridge footprint would remove any future potential liabilities that the Council may incur. The proposed transferee already has existing rights to take access over the land and retain a bridge structure on the land and was encouraged to relocate and develop the site by the Council and therefore the transfer should take place at nil consideration. The Executive have previously resolved that the widening of the road and bridge be permitted at nil consideration. McDermott Homes will bear all of the Council's costs and fees incurred.

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

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

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

Sustainability: ELE has acted upon the Council's suggestions that it relocates to a larger site and retain its operations within the Borough, thus securing employment within a high quality manufacturing sector.

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

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

APPENDICES

1. Location plan showing the location of the existing rights of access and proposed transfer lands.

LIST OF BACKGROUND PAPERS

None