

Agenda Item No:

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Report of: Head of Land and Property
Report to: Chief Officer Economy and Regeneration
Date: September 2016
Subject: North Lodge, Elmete Lane – Sale and Deed of Variation

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Roundhay	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:	10.4(3)	
Appendix number:	1	

Summary of main issues

1. The purpose of this report is to seek approval to terms provisionally agreed to:
 - i) Sell land currently owned by the Council,
 - ii) Variation of the existing covenant restricting the use of North Lodge to one dwelling to be varied to allow use for three dwellings, and
 - iii) Variation of the access rights to accommodate adjoining development proposals.
2. North Lodge has been offered for sale on the open market and a sale has been agreed with a private party subject to covenants being varied and an area of Council land being acquired.

Recommendation

3. It is recommended that the Council completes a Deed of Variation and sells land at North Lodge, Elmete Lane.

1 Purpose of this report

- 1.1 The purpose of this report is to seek approval to terms provisionally agreed to:
- i) Sell land currently owned by the Council,
 - ii) Variation of the existing covenant restricting the use of North Lodge to one dwelling to be varied to allow use for three dwellings, and
 - iii) Variation of the access rights to accommodate adjoining development proposals.
- Background information
- 1.2 North Lodge was sold by the Council in 1989 with a covenant that it should only be used as one dwelling house only.
- 1.3 The present owner has run his Design Company from North Lodge since 1992. The property is now too large and the company is relocating to smaller purpose built modern offices. The owner has attempted to sell North Lodge with the present use of offices but he failed to attract a buyer.
- 1.4 The owner of North Lodge applied for and has been granted planning permission convert the building to three residential houses. Upon marketing North Lodge with the new planning permission a buyer was found and a provisional sale has been agreed, subject to the variation of the restrictive covenant.
- 1.5 In addition to the Deed of Variation, the owner of North Lodge also requested the Council to sell a small area of land adjoining the property. Whilst replacing a boundary fence (sometime after 2008), he inadvertently enclosed land owned by the Council. This land will add additional garden area and part of a parking space to one of the proposed houses.
- 2.5 The Council also owns a development site adjacent to North Lodge, the sale of which has been agreed with Chartford Homes. Chartford has secured detailed planning permission and the sale is expected to complete shortly. Planning has been granted to develop the site; however, the planning permission requires an alteration to the access road, over which North Lodge has rights, granted in the original 1989 sale of the house.

2 Main issues

- 2.1 To enable the sale of North Lodge the owner requests the Council to complete a Deed of Variation to vary the restriction imposed by the Council on sale in 1989 to a single dwelling only to allow use of the property as three dwellings. The owner also requests the Council to sell the small area of garden land. The Council has requested that the access rights granted in the 1989 transfer be varied to follow the new access road Chartford will construction to its adjoining development of 10 houses.
- 2.2 Terms for these transactions have been provisionally agreed and are detailed in the accompanying confidential appendix.

2.3 Consultation and Engagement

- 2.3.1 Ward Members were consulted on 1 September 2016 and the report will be updated upon receipt of their replies.

2.4 Equality and Diversity / Cohesion and Integration

- 2.4.1 There are no equality issues arising from the proposals.

2.5 Council Policies and The Best Council Plan

- 2.5.1 The proposed transactions contribute to the Council's Objective 6 in the Best Council Plan 2015-20 by becoming a more efficient and enterprising Council and helping people get things done easily and efficiently.
- 2.5.2 The variation of the covenant enables the sale of North Lodge to complete, to be brought back into residential use supporting the Council's policy to bring back empty housing into use.

2.6 Resources and Value for Money

- 2.6.1 The Council will achieve a financial receipt from the release of the covenant and the sale of the land this and will support Council Policies.

2.7 Legal Implications, Access to Information and Call In

- 2.7.1 Under Part 3 Section 3E Paragraph 2(a) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of Executive Board in relation to the management of land (including valuation, acquisition, appropriation, disposal and any other dealings with land or any interest in land) and Asset Management.
- 2.7.2 The proposal constitutes a significant operational decision and is therefore not subject to call in.
- 2.7.3 The Head of Land and Property confirms that in his opinion the terms offered to the Council represent the best consideration that can reasonably be obtained under Section 123 of the Local Government Act 1972 (or under the Housing Act 1985).
- 2.7.4 The information contained in the Appendix attached to this report relates to the financial or business affairs of a particular person, and of the Council. This information is not publicly available from the statutory registers of information kept in respect of certain companies and charities. It is considered that since this information was obtained through one to one negotiations for the negotiation of a release of a restrictive covenant then it is not in the public interest to disclose this information at this point in time as this could undermine this method of negotiation and affect the integrity of releasing restrictive covenants by this process. Also it is considered that the release of such information would or would be likely to prejudice the Council's commercial interests in relation to other similar transactions in that prospective parties involved in other similar transactions could use this information to influence the level of consideration which may prove acceptable to the Council. It is considered that whilst there may be a public interest in disclosure, much of this information will be publicly available from the Land Registry following completion of this transaction and consequently the public interest in maintaining the exemption outweighs the public interest in disclosing this information at this point in time. It is therefore considered that this element of the report should be treated as exempt under Rule 10.4.3 of the Access to Information Procedure Rules.

2.8 Risk Management

- 2.8.1 By varying the covenant and access rights and selling the land the Council is accepting that North Lodge can be converted to three private dwellings. There is not considered to be a risk associated with the release of the covenants.

3 Conclusions

3.1 It is concluded that that all the transactions listed in the report be approved on the terms detailed in the confidential appendix.

4 Recommendations

4.1 It is recommended that the Council completes a Deed of Variation and sells land at North Lodge, Elmete Lane.

5 **Background documents**¹ None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.