

Former Seacroft Congregational Church, Brooklands Avenue, Seacroft, Leeds LS14 6RS

Date: 2 September 2022

Report of: Land and Property

Report to: Chief Officer Asset Management and Regeneration

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

The purpose of this report is to seek approval to the release of restrictive covenants on former Council-owned land at the above site. The largely cleared site is owned by a third-party Church who are selling the site, which shall be most likely for residential development. The terms for the proposed release are set out in the confidential appendix, which are on the basis of the Council receiving a share of the net proceeds of the sale of the site. In the event that a purchaser makes a conditional offer on planning and requires the Council and the Church to enter into an agreement for the release of the covenants, this report also seeks approval to do so. Approval is also sought to the transfer of a small strip of land, as defined in the report, as part of the overall deal to rectify a boundary discrepancy.

Recommendations

- a) It is recommended that approval be given to a release of the restrictive covenants affecting the former Seacroft Congregational Church in return for a net share of the proceeds of sale. In the event that a purchaser makes a conditional offer on planning and requires the Council and the Church to enter into an agreement for the release of the covenants, this report also seeks approval to do so. Terms for the proposal are set out in the confidential appendix of this report.
- b) It is also recommended that approval is given to the transfer of a small strip of land as part of the overall deal to rectify a boundary discrepancy.

What is this report about?

- 1 The land, as shown on the attached plan, was sold by Leeds City Council on 12 June 1952 to The Leeds Congregational Council (Incorporated). The conveyance contained restrictive covenants in the Council's favour, as detailed below. Note Leeds City Council is referred to as "Corporation" and the Church is referred to as "Council" in the conveyance extract below.
 - a) *The said property shall be used for the purpose of permanent buildings to be erected thereon and for no other purpose whatsoever except that so much of the said property as does not form the site of permanent buildings may be used for the parking of motor cars or*

for tennis courts with any necessary pavilion in connection therewith provided the parking of motor cars and the use of tennis courts is in connection with the use of any buildings on the said property under the provisions of Clause 4c [1c in this report] hereof.

- b) The layout of the said property and the plans and elevations of any buildings to be erected thereon and the walls and fences surrounding the same and the materials of which the same may be constructed and the drainage thereof shall be subject to the approval of the Corporation and shall be in accordance with the laws byelaws and regulations relating to streets and buildings for the time being in force in the said City of Leeds and no buildings shall be commenced until the layout plans and elevations thereof shall have been previously approved by the Corporation.*
- c) The Council shall in the erection of the buildings upon the said property give notice to the City Engineer for the time being of the Corporation (hereinafter called "the City Engineer") when the foundations of such buildings have been erected to a height of eighteen inches and not more than two feet in order that the City Engineer or his representative may inspect such foundations and no further progress shall be made with the same until the City Engineer shall have certified in writing that the foundation of the buildings intended to be erected have been correctly built in accordance with the foregoing provisions and any building lines affecting the same.*
- d) No building erected on the said property shall be used other than as a place of divine worship or as a hall or other building usually used in connection with a place of divine worship or as a residence of a Minister officiating in such place of workshop and in particular no building erected on the said property shall at any time hereafter be used for any noisy noisome noxious dangerous or offensive trade or calling or for any purpose which may become a nuisance danger grievance or annoyance to the Corporation or to the owners or occupiers of the adjoining or neighbouring property and no building erected on the said property shall be used for the sale either by wholesale or retail of any kind of intoxicating liquor or petrol nor as a theatre cinema music hall garage or omnibus station.*
- e) No hoardings walls gable ends or fences of any kind upon or enclosing the said property shall be used for the posting painting affixing or attaching of any bills signs advertisements or as advertising stations and in no case shall the said property be used for the purpose of erecting thereon any advertising or bill posting station but the Council shall be entitled to erect and use a notice board of a type and size and in a position to be approved by the Corporation and in case of any breach of this provision the Corporation shall in addition to any other remedy they may possess have the right at any time without notice to the owner or occupier of the said property by their agents or workmen to enter upon the said property and to remove any bills signs advertisements or posters displayed or exhibited in contravention of this condition.*

- 2 Following the Council's sale of the land in 1952, a church was built which was in the last few years demolished following its closure. The only building now remaining on the 0.42 acre site is a two bedroomed detached single-storey manse, which is vacant.
- 3 The current owners of the site, The Evangelical Fellowship of Congregational Churches Trust Corporation Limited, have approached the Council seeking a release of the restrictive covenants set out in paragraph 1. The Church no longer require the site and have placed it on the open market for sale with a guide price of offers in excess of £250,000. An offer in excess of the guide price has been accepted by the Church, as detailed in the confidential appendix, for residential development, which would contravene the covenants. In any event, it is considered that the Council in its capacity as former landowner can rely on the Council in its function as local planning authority to determine what would be the most suitable alternative use, rather than any alternative restrictive covenants.

- 4 It is, therefore, recommended that the Council release the covenants in return for a net share of the proceeds of sale of the site. In the event that a purchaser makes an offer that is conditional on planning and requires the Council and the Church to enter into an agreement for the release of the covenants, this report also seeks approval to do so. Further detail on the terms is set out in the confidential appendix of this report.
- 5 Upon title investigation, it has become clear that a narrow strip of land is required to be transferred as part of the overall deal to rectify a boundary discrepancy. The narrow strip of land, which forms part of the physical boundary of the Church site, is shown in grey on the attached plan between the northern boundary of the subject site and the southern boundary of properties at Brooklands Court. The terms of the transfer are detailed in the confidential appendix.

What impact will this proposal have?

- 6 The proposal will provide the Council with a windfall revenue payment for the release of the restrictive covenants, whilst facilitating the redevelopment of a now largely redundant site on the Seacroft estate, which is already seeing significant new housing being developed helping to transform the area.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing Inclusive Growth Zero Carbon

- 7 The proposal will facilitate a new development on a largely redundant site, most likely new housing for the benefit of the local area. This will improve the health and wellbeing of local residents by further improving the Seacroft estate turning a redundant site into a new development. The development will also contribute to inclusive growth as it will create an investment opportunity for a developer and associated supply industries in the construction of new buildings. Any new buildings constructed on the site would have improved energy efficiencies compared the previous buildings and will help contribute towards the Council's Zero Carbon pillar of the Best City Ambition.

What consultation and engagement has taken place?

Wards affected: Killingbeck and Seacroft

Have ward members been consulted? Yes No

- 8 Ward Members have had direct communication with the Church and have also been consulted by the Council in relation to the proposal set out in this report and are supportive. Whilst Ward Members have expressed to the Church a desire to see the site marketed towards social housing providers, this is beyond the scope of the Council's involvement in this matter. Councillor David Jenkins did suggest that the site be considered by the Council Housing Growth team for a possible site acquisition for new council housing. The Church, however, wished to place the site on the open market to best demonstrate they were achieving market value, rather than agree a potential off-market sale to the Council. Following a review, a decision to accept the route of the release of the restrictive covenants was taken.

What are the resource implications?

- 9 The release of the restrictive covenant will provide the Council with a windfall revenue payment.

What are the key risks and how are they being managed?

10 There is a risk that the site may not sell, in which case the covenants would not be released and no revenue payment would be made to the Council. This is considered to be a low risk, as similar sites have proved popular when marketed and the Church has now accepted an offer.

What are the legal implications?

- 11 Under Part 3, Section 3E(g) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of the Executive in relation to Asset Management.
- 12 The Chief Officer Asset Management and Regeneration, Head of Asset Management and Deputy Head of Land and Property have authority to take decisions in relation to Asset Management as delegated in the Director of City Development's sub delegation scheme.
- 13 The proposal constitutes a Significant Operational Decision and is therefore not subject to call in.
- 14 The Deputy Head of Land and Property confirms that in their 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).
- 15 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.

Options, timescales and measuring success

What other options were considered?

16 The only alternative option considered was to not release the covenants, but for the reasons outlined in the confidential appendix this is not recommended.

How will success be measured?

17 By the completion of legal documents associated with the release of the restrictive covenant and receipt of the revenue payment.

What is the timetable and who will be responsible for implementation?

18 The Church has already marketed the site and has provisionally accepted an unconditional offer. The covenants will be released at the same time as the land is sold by the Church. The timescales for the sale are outside the control of the Council.

Appendices

- Confidential Appendix.
- Plan of the site.

Background papers

- None.