

## **BRECKLAND COUNCIL**

### **REPORT OF THE EXECUTIVE MEMBER FOR ECONOMIC AND COMMERCIAL SERVICES TO THE CABINET: 8 June 2010**

#### **REQUEST FOR THE RELEASE OF RESTRICTIVE COVENANT AT SANDY LANE, DEREHAM**

##### **1. Purpose of Report**

- 1.1 This report seeks Cabinet approval for the release of restrictive covenant affecting the garage forecourt at Sandy Lane in Dereham, at nil consideration, to enable the redevelopment of this site to accommodate two new flats.

##### **2. Recommendations**

It is recommended that the Cabinet:

- 2.1 resolve that the following restrictive covenant on the Peddars Way Housing Association's title (transfer dated 30 March 1993), in favour of Breckland District Council affecting the garage forecourt (as shown edged in red on the attached plan) at Sandy Lane in Dereham be released, at nil consideration:

"subject to Clause 7, in respect of any part of the Property described in Parts III, IV, V and VI of Schedule A (garages, garage forecourts, off street parking areas and amenity areas) not to develop or redevelop that part of the Property and not to permit the same to be used as other than garages, parking areas, amenity areas, respectively, serving residential dwellings".

**Note:** In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

##### **3. Information, Issues and Options**

###### **3.1 Background**

- 3.1.1 Peddars Way Housing Association has formally approached Breckland Council in respect of a proposed redevelopment of a garage forecourt at Sandy Lane in Dereham.

###### **3.2 Issues**

- 3.2.1 Breckland Council transferred the garage forecourt at Sandy Lane in Dereham to Peddars Way Housing Association on 30 March 1993. A covenant on the Peddars Way Housing Association's title, in favour of Breckland Council states that "subject to Clause 7, in respect of any part of the Property described in Parts III, IV, V and VI of Schedule A (garages, garage forecourts, off street parking areas and amenity areas) not to develop or redevelop the Property and not to permit the same to be used as other than garages, parking areas, amenity areas, respectively, serving residential dwellings".

- 3.2.3 Consultation with Officers and Ward Representative(s) has been undertaken and there were no objections to the proposed release of restrictive covenant.

3.2.4 The Council's District Valuer has been contacted and in his opinion, for the release of restrictive covenant, the consideration payable should be £5,000.00 (five thousand pounds).

### 3.3 Options

3.3.1 resolve that the following restrictive covenant on the Peddars Way Housing Association's title (transfer dated 30 March 1993), in favour of Breckland District Council affecting the garage forecourt (as shown edged in red on the attached plan) at Sandy Lane in Dereham be released, at nil consideration:

"subject to Clause 7, in respect of any part of the Property described in Parts III, IV, V and VI of Schedule A (garages, garage forecourts, off street parking areas and amenity areas) not to develop or redevelop that part of the Property and not to permit the same to be used as other than garages, parking areas, amenity areas, respectively, serving residential dwellings".

3.3.2 resolve that the following restrictive covenant on the Peddars Way Housing Association's title (transfer dated 30 March 1993), in favour of Breckland District Council affecting the garage forecourt (as shown edged in red on the attached plan) at Sandy Lane in Dereham be released, at or above the District Valuers valuation:

"subject to Clause 7, in respect of any part of the Property described in Parts III, IV, V and VI of Schedule A (garages, garage forecourts, off street parking areas and amenity areas) not to develop or redevelop that part of the Property and not to permit the same to be used as other than garages, parking areas, amenity areas, respectively, serving residential dwellings".

3.3.3 Resolve that the restrictive covenant not be released.

### 3.4 Reasons for Recommendations

3.4.1 The provision of two flats will provide much needed accommodation in Dereham which has a high housing need.

## 4. Risk and Financial Implications

### 4.1 Risk

4.1.1 I have completed the Risk Management questionnaire and can confirm that risk has been given careful consideration, and that there are no significant risks identified associated with the information in this report.

### 4.2 Financial

4.2.1 Proforma B attached.

## 5. Legal Implications

5.1 Breckland has identified that disposal at nil consideration to Peddars Way Housing Association and the development of the site has added value and will provide the Council with additional benefits for the community.

5.2 Part 6 of the Annex to the Local Government Act 1972 may apply to the sale of these areas of land. Under Section 123 (2), General Disposal Consent (England) 2003 the land can be disposed of for "the promotion or improvement of social well being"....."providing the consideration for the disposal does not exceed two million pounds".

## **6. Other Implications**

- a) Equalities – no, implicit within process.
- b) Section 17, Crime and Disorder Act 1998 – implicit within process.
- c) Section 40, Natural Environmental and Rural Communities Act 2006 – implicit within process.
- d) Human Resources – none.
- e) Human Rights – implicit within process.

## **7. Alignment to Council Priorities**

7.1 The matter raised in this report falls within the following council aims and associated priority::

- Prosperous Communities – secure a decent standard of housing across the district

## **8. Wards/Communities Affected**

8.1 Humbletoft.

### Background Papers

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#### Key Decision Status

This is not a key decision.

#### Appendices attached to this report:

Appendix A – site plan

Appendix B – pro forma B