

Executive Report

Ward(s) affected: Westborough

Report of Director of Strategic Services

Author: Melissa Bromham, Deputy Head of Asset Management

Tel: 01483 444587

Email: melissa.bromham@guildford.gov.uk

Lead Councillor responsible: Tim Anderson

Tel: 07710 328560

Email: tim.anderson@guildford.gov.uk

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Former Pond Meadows Training Centre site

Executive Summary

Surrey County Council (SCC) is proposing the re-development of the 'Former Pond Meadows Training Centre' site (shown edged red and coloured blue on the attached plan in **Appendix 2**) to provide a 50-bed extra care facility linked to community use. However, the site is subject to an onerous user covenant, to which Guildford Borough Council (GBC) is the beneficiary. SCC has asked for a deed of release and variation of the user covenant.

SCC is also seeking additional rights in order to bring in new services to the proposed development and to improve the GBC owned access road shown coloured brown on the plan attached in **Appendix 2**.

Officers have obtained an independent valuation from Lambert Smith Hampton (LSH) of the proposed amendments. The consideration payable to GBC in return for the deed of release, variation of the user covenant and the additional rights would be £207,500.

SCC is offering to meet GBC's reasonable costs in the transaction but has requested that no further consideration is demanded due to the community benefit of their proposals.

The options that have been considered are to demand the £207,500 capital payment from SCC or agree to assist SCC in their proposals by agreeing to the variation of the user covenant and the grant of additional rights for nil consideration.

Recommendation to Executive

That the Executive:

- (1) Agrees to enter into a deed of release of the restrictive covenant, a variation of the user covenant and grant of additional rights for the land known as the Former Pond Meadows Training Centre.

- (2) Approves the transaction is completed for nil consideration.
- (3) Authorises the Head of Asset Management, in consultation with the Chief Finance Officer, and the Lead Councillor for Finance and Assets, to agree the terms for the deed of release; draft heads of terms set out in Appendix 1 to this report.

Reason for Recommendation:

To allow Surrey County Council to re-develop the subject site to provide a 50-bed extra care facility within the Borough.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

- 1.1 Officers request that the Executive decide whether to release an onerous user covenant, to which Guildford Borough Council are the beneficiary, and grant additional rights on the Council's retained land, for nil consideration.

2. Strategic Priorities

- 2.1 The proposed extra care facility will help deliver the following fundamental themes within the Council's Strategic framework:
 - Place-making: by "delivering the Guildford Borough Local Plan and providing the range of housing that people need, particularly affordable homes".
 - Community: by "supporting older, more vulnerable and less advantaged people in our community".
- 2.2 In addition, it will help the vulnerable members of our community in line with one of the Council's values.

3. Background

- 3.1 The Freehold of the subject property is owned by SCC. The property comprises a rectangular and level parcel of land which formerly housed the Pond Meadow training centre. The buildings have all been demolished and the site is now cleared for re-development. The Property is connected to Pond Meadow via a short, narrow drive at the north end of the road, between two houses. This drive is owned by GBC and coloured brown on the plan attached as **Appendix 2**.

The Proposal

- 3.2 SCC is proposing the development of the site for an extra care home linked to community use. We understand that the proposed development is a 50-bed extra care facility, although officers have not been provided with any design details for the proposed development and a planning application has yet to be made. SCC has stated the following:

“Residency of the extra care home will be subject to meeting eligibility criteria, which is to provide 100% regulated rent to some of the most vulnerable and needy Surrey residents, and in doing so relieving pressures of GBC’s housing stock and care in the community requirements. The proposed facility will be part of SCC’s objective to provide 725 extra care units. Residents in the Borough requiring extra care will benefit from the provision of a c. 50 bed home and GBC obtain an additional benefit of the extra care home freeing up social housing within the Borough”.

3.3 GBC sold the subject this land to SCC in 1950. The sale was subject to a covenant regarding the future use and development of the land and the benefit of rights of way, drainage, water, support, light and other easements over the land coloured brown on the plan in **Appendix 2**. The user covenant was amended with effect from 3rd June 1957. SCC now wishes to vary the user covenant again, as well as obtain additional rights in order to facilitate the proposed re-development.

3.4 The existing user covenant is as follows:

SCC covenants to use the land and any building or buildings to be erected thereon for the purpose of a mixed occupation and training centre for defectives under the provisions of the Mental Deficiency Act 1913 as Amended by the Mental Deficiency Act 1927 and the National Health Service Act 1946 or such other additional or amending Act as may from time to time be in force (“the Amended Covenant”).

3.5 The following user covenant is now proposed:

Use for the provision of residential accommodation and care to people in need of care and/or support (other than a use within class C3 (dwelling houses)). Use as an Extra Care, hospital or residential/nursing home.

3.6 SCC is also seeking consent to undertake works to the surface and sub-surface of the GBC owned land coloured brown on the plan in **Appendix 2**, to lay services under the surface, and to seek adoption of the road by the public highway authorities.

3.7 SCC is offering to meet GBC’s reasonable costs but have requested that no further consideration is demanded due to the community benefit of their proposals. Draft heads of terms are attached in **Appendix 1**.

3.8 The Council have obtained an independent valuation from Lambert Smith Hampton (LSH) of the proposed amendment to the covenant and rights. LSH have valued the increase in land value as a result of the amendments at £415,000.

3.9 The way this increase in value is shared between two parties is open to negotiation. However, it is normal for this increase to be shared equally between the parties. On this basis, the consideration payable to Guildford Borough

Council in return for the deed of release, variation of the user clause and grant of additional rights granted would be £207,500.

4. Consultations

- 4.1 Officers have consulted with the Leader of the Council and the Lead Councillor for Resources.

5. Financial Implications

- 5.1 The grant of rights over the Council's land (easements) constitutes a disposal of land under s123 of the Local Government Act 1972. Therefore, the Council has a statutory duty to seek best consideration.
- 5.2 However, in accordance with the General Disposal Consent (England) 2003 (2003 Consent) a Council can consider the disposal of an asset for less than best consideration in certain circumstances.
- 5.3 If the Council agrees to the transaction at nil consideration the Council will be forgoing a potential capital receipt of £207,500.
- 5.4 All reasonable costs associated with the transaction are to be covered by SCC.

6. Legal Implications

- 6.1 The statutory duty to achieve best consideration is not applicable in these circumstances. The modification of a restrictive covenant does not constitute a disposal of land under s123 of the Local Government Act 1972.
- 6.2 The Council, however, has a fiduciary duty owed to local taxpayers to ensure best value.
- 6.3 The grant of rights over the Council's land (easements) constitutes a disposal of land under s123 of the Local Government Act 1972. Therefore, the Council has a statutory duty to seek best consideration.
- 6.4 However, in accordance with the General Disposal Consent (England) 2003 (2003 Consent) a Council can consider the disposal of an asset for less than best consideration in the following circumstances:
- a) The purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following in respect of the whole or any part of its area, or of all or any person resident or present in its area:
 - i. the promotion or improvement of economic wellbeing;
 - ii. the promotion or improvement of social wellbeing;
 - iii. the promotion or improvement of environmental wellbeing.

b) The difference between the unrestricted value of the land to be disposed of and the consideration or restricted value of the land does not exceed £2,000,000 (two million pounds).

6.5 The grant of the additional rights is vital to facilitate the proposed development. The provision of a new extra care facility will relieve pressures on GBC's housing stock and care in the community requirements and help deliver the Council's strategic objective, as set out in the Strategic framework, to "provide the range of housing that people need" and "support older, more vulnerable and less advantaged people in our community".

6.6 Officers therefore consider that the benefit as outlined above satisfies item ii) of requirement a) of the 2003 Consent.

6.7 In terms of requirement b) LSH note that the difference between the unrestricted value of the land and the consideration is less than £2,000,000.

7. Human Resource Implications

7.1 No human resource implications apply.

8. Equality and Diversity Implications

8.1 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

9. Climate Change/Sustainability Implications

9.1 There are no specific implications as a result of the report, however, a new fit for purpose extra care scheme would support the Council's sustainability agenda and have community benefits.

10. Summary of Options

10.1 Officers believe the Council has three options:

1. Demand that SCC pay £207,500, and ensure the Council obtains best value.
2. Discount the above figure by an amount that is proportionate to the potential service provision savings or benefit to the community. This may be difficult to quantify.
3. Support the scheme and agree to complete the transaction for nil consideration.

11. Conclusion

- 11.1 SCC are proposing a new extra care facility which will be linked to community use. Residency of the extra care home will be subject to meeting eligibility criteria, which is to provide 100% regulated rent to some of the most vulnerable and needy residents. SCC believe that this will also relieve the pressures of GBC's housing stock and care in the community requirements.
- 11.2 The proposed extra care facility will help deliver the following fundamental themes within the Council's Strategic framework:
- Place-making: by "delivering the Guildford Borough Local Plan and providing the range of housing that people need, particularly affordable homes".
 - Community: by "supporting older, more vulnerable and less advantaged people in our community".
- 11.3 The development will help the vulnerable members of our community in line with the Council's values.
- 11.4 The Executive need to decide whether they wish to support SCC proposals by completing the transaction at nil consideration.

12. Background Papers

None

13. Appendices

Appendix 1: Draft Heads of Terms
Appendix 2: Site Plan