

 EXECUTIVE 1st July 2015		Agenda Item No. 5
Title	St Michael's Leper Hospital Contract and Bond	
For further information about this report please contact	Andrew Jones (01926) 456830 Andrew.jones@warwickdc.gov.uk	
Wards of the District directly affected	Saltisford	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Executive Meeting 12 th February 2014; Executive Meeting 18 th April 2012	
Background Papers	See above	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	Yes
Equality & Sustainability Impact Assessment Undertaken	No
Not applicable.	

Officer/Councillor Approval	Date	Name
Chief Executive	8 th June 2015	Chris Elliott
CMT	8 th June 2015	Chris Elliott, Bill Hunt, Andrew Jones
Section 151 Officer	8 th June 2015	Mike Snow
Monitoring Officer	21 st May 2015	Author
Legal Officer (WCC)	29 th May 2015	Barry Jukes
Portfolio Holder(s)	15 th June 2015	Cllr Mrs Gallagher
Consultation & Community Engagement		
N/A		
Final Decision?		Yes

1 SUMMARY

- 1.1 This report asks Executive to release Coventry Turned Parts Limited (CTPL) and HSBC Bank PLC from a Bond entered into by the aforementioned parties and Warwick District Council (WDC) which was agreed following a contract between CTPL and WDC. However, the contract cannot be traced by either party so there is no understanding as to the precise terms of that contract.
- 1.2 It is clear, however, that the Bond was only to be held whilst "refurbishment and redevelopment of the buildings and land known as The Leper Hospital Site Saltisford Warwick" took place and this work did not happen.
- 1.3 There would be no loss suffered by the Council in releasing CTPL and HSBC from the Bond.

2 RECOMMENDATION

- 2.1 That Executive agrees to release Coventry Turned Parts Limited and HSBC Bank PLC from a Bond (see attached at Appendix A and dated ??/??/2005 - actual date unknown) with Warwick District Council (WDC) in respect of The Leper Hospital Site, Saltisford, Warwick and that the terms of the release be delegated to Deputy Chief Executive (AJ) in consultation with Warwickshire County Council (WCC) legal services.

3 REASONS FOR THE RECOMMENDATION

- 3.1 Following Executive approval on 18th April 2012, officers have been working with various stakeholders, consultants and the landowner to determine whether there is a viable and sustainable future for The Leper Hospital site and the two buildings known as Master's House and St Michael's Chapel which sit on the land. English Heritage has 80% grant funded work to produce a comprehensive specification with drawings to facilitate the repair of the Master's House to make it structurally stable and weatherproof. This work is now being used by Arden Estate Partnerships, on behalf of WDC, to establish whether there is market interest in developing the site for extra-care housing, in line with the recommendation of E C Harris LLP who, again on behalf of WDC, undertook an options appraisal and high level feasibility study of the site's potential.
- 3.2 WDC has no legal or equitable interest in the site but as a community leader it does wish to see the site brought back into use as it is a historically significant landmark which is currently an eyesore.
- 3.3 The planning history of the site is long and varied but it would appear that an application made on 30th November 2004 (W04/2132) and granted on 1st February 2007, led to discussions between the applicant and the erstwhile Head of Planning & Engineering, whereby a contract was entered into between CTPL (the landowner) and WDC.
- 3.4 Regrettably, the substance of that contract is unknown. Despite extensive searches at these offices it cannot be located and the officer who led on the creation of the contract has long since retired. The former-employee has been contacted but he cannot recall the detail of the contract. Neither can the contract be traced at CTPL. The negotiations were undertaken by the owner of the company but he is not in good health and has no recollection of the contract. He has passed the day-to-day affairs of the business to his son-in-law, who was not a party to the discussions at the time.

- 3.5 What can be established from an e-mail on the planning history is that the contract required WDC's planning officers to be satisfied with the scheme envisaged by the planning application. However, the plans never moved to scheme development.
- 3.6 Officers have no understanding as to why a contract was agreed in the first instance. WDC has no interest in the land; did not provide a grant to the company to help with the proposed development; and there is no reference to any obligation to be entered into in the planning approval. Therefore in the normal scheme of things the failure to locate the contract whilst unsatisfactory would not be problematic. However, as a consequence of the contract a Bond was entered into whereby a sum of £125,000 jointly and severally bound CTPL and HSBC bank "to cover the cost of carrying out the terms of the contract".
- 3.7 From the limited information available it would seem that the Bond was put in place to cover the cost of refurbishment and redevelopment of the site's buildings and that if the work was not completed to the satisfaction of the Council's officers then the Bond would need to be paid to WDC. However, as stated earlier, the works were never undertaken.
- 3.8 CTPL has now approached the Council to see if it will release the company from the Bond as it wishes to change its banking arrangements but cannot do this whilst HSBC is still jointly and severally liable under the terms of the Bond. The Deputy Chief Executive (AJ) has spoken with the bank's representative to confirm this is the position which they have. They do not hold a copy of the contract either.
- 3.9 Officers have been working very closely with the landowner and his representative over the last three years and there is no reason to believe that there is any bad faith being displayed and so consequently it is recommended that WDC's legal officers are instructed to agree with the relevant parties for release from the Bond.

4 POLICY FRAMEWORK

- 4.1 There is no policy implication from the content of this report.

5 BUDGETARY FRAMEWORK

- 5.1 The Bond is not included in WDC's accounts as an asset and consequently releasing CTPL and HSBC from the Bond would have no impact on the Council's financial position.

6 RISKS

- 6.1 The risk with a release from the Bond is that the contract contained some potential financial benefit to the Council. Given the Council's lack of legal and equitable interest in the land and that it has not paid any grant to CTPL, it is difficult to argue that risk is anything other than extremely low.
- 6.2 If the Council does not agree to release the Bond, CTPL may seek some form of equitable remedy from the Court requiring the Council to release the Bond on the ground that it is reasonable to do so given the absence of the contract and there being no available evidence of its purpose. Such action would result in the Council incurring legal costs and possibly having to pay CTPL's legal costs if the application was successful.

7 ALTERNATIVE OPTIONS CONSIDERED

- 7.1 The only alternative option is not to agree the release but given the circumstances and risks involved this was not proposed as a reasonable way forward.

8 BACKGROUND

- 8.1 St Michael's Leper Hospital was founded by Roger, Earl of Warwick in the reign of Henry I (1100-1135) and is classified by English Heritage as a scheduled monument. The remains of two of the hospital buildings can still be seen – St Michael's Church, a chapel and the 15th century two-storey timber framed building known as Master's House. They are both grade II listed buildings but on English Heritage's *Buildings At Risk* Register.
- 8.2 Locally the site is known as the Lepers' Hospital. Such sites usually comprised of a church and individual shelters for the lepers and were often sited beyond the fringes of towns to minimise the spread of infection. Documented information on the history of the hospital exists from 1275.
- 8.3 An Archaeological Evaluation of the site was prepared in December 2004. Evaluation trenches located 13th century stone building remains belonging to either the early hospital or chapel. 13th century or earlier post holes and pits were also found and may relate to timber structures in the very early phase of the site. A definite later medieval phase was identified consisting of masonry wall foundations and a yard surface. Other boundary features were also located.
- 8.4 The site is one of a limited number of remaining leper hospital sites in England despite over a thousand such sites having existed in medieval times.
- 8.5 A planning application for the development of the site for offices was approved in 2009 and scheduled monument consent was granted. However, there is little prospect of the owner undertaking development himself and he is now keen to sell the land.