

 EXECUTIVE MEETING - 12 December 2012		Agenda Item No. 14D
Title	Land off Queensway, Leamington Spa	
For further information about this report please contact	Chris Makasis, Estates Manager	
Wards of the District directly affected	Leamington Brunswick	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	No	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	None	
Background Papers	None	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	No
Equality & Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
With regard to officer approval all reports <i>must</i> be approved by the report authors relevant Deputy Chief Executive, Head of Service, Finance, Monitoring Officer and the relevant Portfolio Holder(s).		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	26-11-12	Chris Elliott
Acting Head of Service	26-11-12	Tracy Darke
CMT	26-11-12	
Section 151 Officer	26-11-12	Mike Snow
Monitoring officer	26-11-12	Bill Hunt
Finance	26-11-12	Mike Snow
Portfolio Holder(s)	26-11-12	John Hammon
Consultation Undertaken		
Please insert details of any consultation undertaken with regard to this report.		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. **SUMMARY**

- 1.1 The report notes the use of the Chief Executive's emergency powers to relinquish restrictive covenants from, and Councils rights of way over, land off Queensway, Leamington Spa.

2. **RECOMMENDATION**

- 2.1 That Executive notes that the Chief Executive in conjunction with Group Leaders has used his powers of Section 4 (4) CE (4) of the Council's constitution to:

- 2.1.1 Approve the release of restrictive covenants; &
- 2.1.2 Release rights of access for land off Queensway Leamington Spa (shown hatched & cross hatched on the attached plan) in return for £24,000, plus £2,000 to cover this Council's legal fees.

3. **REASONS FOR THE RECOMMENDATION**

- 3.1 The current owners of the land at Queensway (Deeley Property) asked this Council to release the restrictive covenants in WDC's favour to enable them to carry out their proposed developments with Aldi, Travis Perkins & Orbit Housing Association.
- 3.2 The release of the covenants was conducted in two tranches in February and late March 2012. This two tranche approach took place as a result of Deeley Property mis-identifying the land they wanted the releases to deal with. These were dealt with approximately 6 – 8 weeks apart and the releases were valued at £12k each by the District Valuer (DVS). As such, each was dealt with under the scheme of delegation (Head of Development Service in conjunction with Ward Councillors) and the Code of Procurement Practice (sub £20k disposals do not require Executive approval).
- 3.3 In finalising the transfers and reviewing the sale documentation with the County Council Legal Service, it was concluded that Executive should be notified of the two releases as the cumulative total received would be above the threshold contained within the Code of Procurement Practice. Primarily this is because legally the disposal would be registered as one transfer. However, as Deeley Property was at the point of exchange for both schemes with the longstop dates set as 16th November 2012, there was no time to report the sale and ask for permission through the usual formal route.
- 3.4 The District has received the full value of the restrictive covenants from the release (both valued by the District Valuer). The release will enable the development of the Aldi, the creation of the Travis Perkins Trade Park, an affordable housing development, all of which will also create a number of new jobs. The development will also trigger additional payments to the jobs clubs of £16k.
- 3.5 Late in the process, Deeley Property also requested a release of rights attached to the land. These rights were not originally part of the request related to the restrictive covenants and therefore officers did not have the powers to agree the release. It was felt therefore that as the Chief Executive was asked to agree the covenant release under emergency powers then it was appropriate to deal with the release using this mechanism.

3.6 The District Valuer has confirmed that these access rights have no monetary value attached to them.

4. POLICY FRAMEWORK

4.1 The release of the restrictive covenants is consistent with the Council's Sustainable Community Strategy in respect of Economy, Skills & Employment, to support a strong, diverse economy which provides jobs for all.

4.2 It is also consistent with the Council's Principles of Strategic Asset Management The Council will consider disposal of property when a property or land:

- § does not deliver the strategic objectives of the Council;
- § is surplus or under-utilised;
- § would enable regeneration of an area of future positive development;
- § is underperforming commercially;
- § is inefficient (economically, ecologically, state of repair, energy, etc);
- § to enable wider regeneration or redevelopment;
- § to realise a profit on investment.

5. BUDGETARY FRAMEWORK

5.1 The agreement to relinquish the restrictive covenant will generate a capital receipt of £24,000 for this Council and the additional £2,000 that is to be received by this Council will cover its legal fees. No other costs to this Council, other than Officer time, will be incurred by this Council.

6. ALTERNATIVE OPTION(S) CONSIDERED

6.1 The Council could decide not to release the restrictive covenant and Council rights of way over the land. However, this would continue to limit its use to that of a light/general industry and similar uses, which may hinder the future development of the area and not, therefore, be of benefit to the area as a whole. It would also prejudice the development of the Aldi, the new Travis Perkins trade park which would then open up opportunities in the station area for redevelopment.

6.2 Additionally, the landowner could apply to the Lands Tribunal under the terms of the Law of Property Act 1969, with the possibility that the District Council could realise a lesser amount to release the covenant.

7. BACKGROUND

7.1 The site in question, shown hatched & cross hatched on the attached plan, was disposed of by Leamington Borough Council, in plots, between the period 1954 – 1973, subject to restrictive covenants permitting the sites to be used purely for light/general industrial, or similar use, and Council rights of way over the land.

7.2 The current owners of the sites are now seeking to develop on the sites, the development which shall include a new Aldi retail food store, with associated car parking & landscaping; business units with use classes B1(b) (research/development, B1(c) (light industry), B2 (general industry) or B8 (warehousing) ; a building for display & sale of motorcycles, with associated car parking & landscaping and 72 x Affordable Dwellings on the hatched site,

and 178 x Affordable Extra Care Apartments & associated parking, landscaping, etc., on the cross hatched site

- 7.3 The current owners received the necessary Planning Approvals for the above, excluding the 72 x Affordable Dwellings, under Planning Approval references W/09/1169 and W/12/0892
- 7.4 The current owners are now seeking the necessary Planning Approval for the 72 x Affordable Dwellings, under Planning Application ref W/12/1428.