

## **Executive Leader (incorporating Finance and Performance) Decision Session**

Report of the Director of Economy and Place

### **St. Christopher House, George Cayley Drive, Clifton Moor – Application to remove Restrictive Covenant**

#### **Summary**

1. This Report sets out details of an application to lift the restrictive covenant on an office site at Clifton Moor to allow a low-cost residential development. The application is in accordance with the Asset Management Policy on lifting restrictive covenants on Clifton Moor and a capital receipt has been agreed in accordance with the Policy.

#### **Background**

2. The Asset Management Policy on lifting restrictive covenants at Clifton Moor was approved at the Cabinet Member Decision Making Session on 7 July 2014 and a copy of this policy is attached at Annex A. Several approvals have been given at recent Cabinet and Executive Member Decision Making Sessions to lift restrictive covenants on sites nearby, amongst them are Pioneer Business Park, other units at Aviator Court and Marsden Park, and this has been in return for capital sums.
3. An application has been received for St. Christopher House, George Cayley Drive, Clifton Moor which is covered by the same restrictive policy for further use and development. Details are outlined below.
4. Silvadale Ltd. have applied to lift the restrictive covenant at St. Christopher House, George Cayley Drive, Clifton Moor where the office building has been vacant for a considerable period of time and a scheme has been put together for a residential development on the site. A site plan is attached at Annex B.
5. The proposal is to create 6 x 1 bed apartments within the existing office building structure to be marketed at first time buyers as

starter homes. Ground and first floor plans of the proposal are attached at Annex C.

6. The adopted Council policy has the following requirements for such an application to be considered and these are set out below together with details of how these requirements are being met.
7. Appropriate communal open space for clothes drying, secure cycle storage and bin storage, etc.

Cycle and bin storage is already provided and it is proposed to enhance this to accommodate recycling requirements. The grassed area surrounding the building has been split between the ground floor units with one flat having direct access to this.

#### Some play provision

The applicants have stated that the apartments are not designed for general family housing and therefore there is no specific play provision.

#### Suitable pedestrian access

Pedestrian access will remain as existing which is directly from George Cayley Drive.

#### Appropriate acoustic treatment to limit road noise, etc.

Planning consent has been granted for the proposal, conditional on significant work to meet specific internal acoustic levels with appropriate acoustic ventilation. As part of this work the property has been re-glazed. This planning condition has been fully complied with by the property owner.

8. The proposal for St. Christopher House therefore meets the requirements of this Policy. However although the apartments are proposed to be sold at a reasonable figure it is the view of Housing Services that these are not 'affordable' apartments within the relevant definition and therefore, in accordance with the Policy, a capital sum has been negotiated to remove the restriction. The amount which has been agreed is £21,180 and it is considered that this amount is an adequate figure to recommend for acceptance. It is directly comparable to the sums agreed for the release of the restrictive covenant on the other schemes approved by the Executive Member.

## Options

9. If these proposals are not accepted then the applicants have indicated they will take the matter to the Lands Tribunal. Legal Services have previously indicated there is a reasonable chance of success although it will be costly and take a considerable length of time.
10. The option to accept the capital sums offered is therefore recommended, as it provides a capital receipt for the Council and also potentially 6 apartments for first time buyers.

## Council Plan

11. The proposed policy supports the Council policy of Get York Building, creating additional low cost housing on brownfield land.

## Council Values

12. The proposed policy meets the Council Values in terms of;
  - Supporting and enabling individuals and our communities
  - Being ambitious for our communities and our city
  - Delivering on our commitments

## Implications

**Financial** – The variation of the covenant realises a capital receipt which reflects the uplift in value of the site after the covenant has been lifted.

**Human Resources (HR)** – None

**Equalities, Crime and Disorder and IT** – Decent quality housing is fundamental to the creation of healthy, sustainable communities and due consideration needs to be given to avoid the indirect creation of sub-standard housing.

**Legal** – The refusal to lift a covenant can be subject to further legal challenge if it can be proved that the grounds for the original covenant no longer apply.

It is noted that, in addition to receipt of the financial sums, the Council wishes to make the release of the covenant subject to the matters referred to in paragraph 7 above. This can be included in the formal deed releasing the covenant or, if this is objected to by

the applicants, controlled through the planning process by way of conditions to any planning permission and/or the provisions of any S106 agreement which the developer would be required to enter into.

**Property** – Contained within the Report.

**Other** – None

### **Risk Management**

13. There is still a risk of legal challenge if the Council refuses to lift restrictive covenants.

### **Recommendations**

14. The Executive Member is asked to agree to the request to remove the restrictive covenant on
- a) St. Christopher House, George Cayley Drive for a capital sum of £21,180

Reason: To enable the provision of apartments at reasonable cost in an area of surplus office accommodation.

### **Contact Details**

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**Chief Officer Responsible for the Report:** Neil Ferris  
Director, Economy and Place

**Report Approved** ✓  
**Date:** 3/7/18

### **Specialist Implication Officer(s)**

Implication: Legal  
Gerrard Allen  
Senior Solicitor – Property  
Ext: 2004

**Wards Affected:** Clifton Without, Rawcliffe and Skelton

**For further information please contact the author of the report**

**Annexes**

Annex A Asset Management Policy on lifting restrictive covenants at Clifton Moor

Annex B Site Plan

Annex C St. Christopher House Proposal Plans