

**Decision Session
- Cabinet Member for City Strategy**

1 December 2011

Report of the Assistant Director – Economy and Asset Management

Petition regarding the Turf Tavern

Summary

1. This report seeks to provide background information regarding the Turf Tavern, following the submission of a petition to full Council on 6th October 2011.

Recommendations

2. The Cabinet Member for City Strategy is asked:
 - To note the land and planning issues on the Turf Tavern site and the actions taken by officers regarding the restrictive covenant.
 - To request officers respond to the petitioners accordingly.
 - That in similar situations in the future, officers seek the views of local ward members.

Reason: In order to respond to the petition presented to Council.

Background

3. A petition was presented by Councillor Hodgson on behalf of residents of Dringhouses and Woodthorpe ward campaigning to keep the Turf Tavern open. An e-petition on the same subject was rejected under the Council's petitions policy on the grounds that it related to the council's planning functions in that it specifically petitioned the Council to reject planning permission for the demolition and development of the Turf Tavern.
4. This property was originally sold by the Council in 1954 with a restrictive covenant that the site could only be used for use as a

public house. The Council has adjoining land so it can enforce this covenant. However this is only a restrictive covenant as to the use of the land. It is not a positive covenant saying that the building must be kept open as a public house therefore there is nothing legally that the council can do to stop the public house closing, and the building and land lying empty and unused. It would therefore be possible for the current owner of this site to do this and then, after a lapse of time, seek to have this restrictive covenant lifted 'free of charge' as they could argue that it is not relevant anymore as shown by the fact the pub is closed and there is no operator interested in running it.

5. The owner could then theoretically make an application to the Land Registry for the removal of the charge from the Register. For the above reasons, advice given to officers indicates that this application is likely to succeed. The owner would then be free to develop/use the site as they wished (within the scope of planning legislation), and the Council would not be able to take any action or claim any compensation.
6. In this case, the owner of the site did approach the Council to have this restriction lifted as they wished to develop the site for residential purposes. The Council could have refused and the property would have remained empty and the site unused with all the attendant vandalism and other issues. There is nothing the Council could have done about this. Officers took the view to see if the Council could gain something from this approach and therefore consulted with housing services. This identified a need for affordable housing in the area, especially for family size housing.
7. The proposed development on the site would have fallen below the threshold for affordable housing to be produced. Therefore, working with Housing Services, an agreement has been reached with the owner to provide 2 affordable houses for rent on this site, one 2 bedroom house and one 3 bedroom house. This is dependent on planning permission being granted on the site for residential development of not less than 8 houses. This outcome was agreed with Housing Services and an agreement was completed on 21 July 2011.

8. The actual release of the covenant will not come into effect unless all the conditions of the agreement are met, namely:
- Detailed planning application for not less than 8 houses is obtained
 - An agreement with the RSL is reached for the 2 affordable houses and the freehold is transferred to them
 - This is all completed within 4 years from the day of this agreement

If any of the conditions are not met the restrictive covenant will not be lifted

9. It is considered that a successful outcome has been achieved by Property Services in maximising the opportunity presented by the approach of the owner of the site to meet the corporate priority of building stronger communities; in particular:
- 2 family size affordable houses will be available at no cost to the Council
 - The site will remain vacant for a minimum period of time
 - The alternative would have been a vacant site with the associated problems, lack of action and after a few years a release of the covenant by the Land registry without any benefit or compensation to the Council and a development on the site with no affordable housing.

Consultation

10. This report has been written in consultation with Housing and Legal Services. Whilst there has been substantial consultation internally with officers, there was no communication about the release of the restrictive covenant with local ward members. It is recommended that such consultation takes place in similar situations in the future.

Options

11. As this is mainly an information report no options are proposed.

Council Plan

12. a. Building stronger communities.
b. Protect the environment.

Implications

Finance

13. No direct financial implications.

Legal

14. All implications are included in this report.

Property

15. All implications are included in this report

Human Resources

16. None.

Risk Management

17. There are no known risks with the recommendation.

Contact Details

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report:**

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**Report
Approved**



Date 14.11.11

Specialist Implications Officer(s) None

**Wards Affected:
Dringhouses and Woodthorpe**

For further information please contact the author of the report