

Decision details

Release of Restrictive covenants at Grange Hill, West Kirby

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Decision Maker: Director of Regeneration and Place

Decision status: Recommendations Approved

Is Key decision?: No

Is subject to call in?: No

Decision:

The Director of Regeneration and Place has authorised that:

- (1) all the covenants restricting the principal use of the land for agricultural land in relation to the land at Grange Hill, Grange Old Road, West Kirby be removed (“the site”);
- (2) The piece of land forming part of the access road and at the entrance to the site off Grange Old Road be sold to Hasset Homes Ltd; and
- (3) The above transaction shall proceed on the terms as set out in Appendix 1 to this report

Reasons for the decision:

The land located at Grange Road, West Kirby was originally Grange Hill Farm and consisted of agricultural land and dwellings and is shown edged red on the attached plan. The land was subsequently split into separate land parcels: the Mushroom Farm and the residual Grange Hill Farm, which are now in three separate ownerships.

The land was previously owned by the Council and restrictive covenants were imposed at the time of sale which, in the main, restricts the use to that of agricultural purposes, with limited residential use permitted. Part of the land was initially restricted to a single dwelling, although this was partially released in 2017 to allow the erection of two dwellings.

An executive Member Decision was taken on 3 August 2017 to release the covenant for the larger part of the site for a figure in excess of £200,000, but this was not implemented.

Since then, a developer has approached the Council to resurrect discussions around the removal of the restrictions and accordingly the Council's appointed property consultants, Lambert Smith Hampton (LSH), were asked to assess the value of the Council's interest in these property interests. As part of the advice received from LSH, it has been recommended that the whole area be released from the covenants as this would enable a more comprehensive redevelopment.

In addition to seeking to remove the covenants, the developer, Hassett Homes, has identified a very small area of land, as shown shaded blue on the attached plan, which is owned by the Council, but forms part of a private access road. This appears to be something of an anomaly and the Developer has asked that the wider transaction includes a transfer of this area of land. This would still leave a very small sliver of land, shown shaded green, at the entrance road to the site which is currently unregistered. Whilst the Council is not the registered owner, it is probably best placed to claim ownership. As such, the Council would seek to transfer such rights, title and interest that the Council may have in the land in exchange for Hassett Homes providing in an easement for vehicular access, to the extent that it is able to do so.

Accordingly, the advice from LSH is that an appropriate fee for releasing both restrictions and selling the small piece of land, based on their proposed scheme, would be in the sum of £236,540.

This figure is based on Hassett Homes obtaining permission for 33,024 sqft of residential dwellings for private sale, or 25 units. Should the number of units alter, the figure will increase or decrease by £9,461 per plot, accordingly. The figures are capped at a maximum of £273,080 and a minimum of £200,000, regardless of the number of units. Full heads of terms are included in appendix 1.

The developer has agreed to these terms, together with a contribution towards the Council's fees. The transaction will be conditional on the developer securing planning consent and also securing the ownership of the land.

The land is allocated for housing in the Council's Unitary Development Plan and is also allocated for housing in the emerging Local Plan. The development of this site with houses is essential to support the delivery of housing numbers.

There are currently no costs attaching to the Council's covenant and the potential liability for the small area of land is negligible. If the transaction is approved, the Council will receive a deposit of £5,000 and the balance once the contract is completed. The council has spent £5,500 ex VAT on advice from the property consultant. The Council will receive a contribution towards its costs in the sum of £2,500 on completion. If the matter doesn't complete, then the Council will receive £750.

Appendix 1 contains exempt information as defined in Schedule 12A of the Local Government Act 1972. It is in the public interest maintain the confidentiality of Appendix 2 pursuant to Paragraph 3 'Information relating to the financial or business affairs of any particular person (including the authority holding the information).'

Alternative options considered:

The Council is not obliged to remove the restrictions although the landowner (or the developer) could approach the Upper Tribunal Lands Chamber with a request to amend or remove the restrictions. In considering the application, the Upper Tribunal would take in to account the allocation within the Local Plan

together with the need for housing to support the Local Plan. The outcome of the Tribunal is difficult to predict.

Background Papers

Report and advice from Lambert Smith Hampton (exempt from publication)

Delegated Powers

Part 3 Section C – Overview and Scheme of Delegations of Authority to Officers

The decision is not reserved to a Committee or Sub-Committee and the Director is satisfied that paragraphs 2(a) to 2(c) apply.

Publication date: 17/06/2024

Date of decision: 13/06/2024

Accompanying Documents:

- Restricted enclosure [View reasons restricted](#)

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