

Date of Meeting 21st June 2022

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Exemption applied: None

Review date for release NA

Land to the South of Redgates, Salterton Road, Exmouth

Report summary:

This report summarises the opportunity for East Devon District Council to accept the transfer at 'nil consideration' of the freehold of land with the opportunity to develop 4 commercial units as part of the Developer's Planning obligation by Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 relating to Land to the South of Redgates, Salterton Road, Exmouth. The conditions of the transfer are:

1. The land with a building erected as per the attached plan is to be transferred to the council freehold with a right of way over the access road for nil consideration.
2. The council will not be able to sell/transfer the freehold for a period of 10 years.
3. There will be a service charge to cover repairs/maintenance to the access road. This is yet to be confirmed as we do not currently know yet the type of vehicle movements and secondly the wider service charge has not yet been calculated. As an estimate this is likely to be in the region of £1500-£2000 per annum – which can be recharged to the tenant(s)

This will be subject to full Heads of Terms to be considered by Legal Services.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That AMF recommend to Cabinet:

- a) To delegate authority to the Strategic Lead - Governance and Licencing, the Strategic Lead – Finance and the Service Lead – Place, Assets & Commercialisation in consultation with Portfolio Holder for Economy & Assets to consider the opportunity for East Devon District Council to accept the transfer at 'nil consideration' of the freehold of the land (with the potential to develop 4 no. commercial units) as part of the Developer's Planning obligation by Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 relating to Land to the South of Redgates, Salterton Road, Exmouth.
- b) To delegate authority to the Strategic Lead - Governance and Licencing, the Strategic Lead – Finance and the Service Lead – Place, Assets & Commercialisation in consultation with Portfolio Holder for Economy & Assets to complete the acquisition if a decision is made to progress.
- c) If acquired, to lease these units out on a commercial basis.
- d) A further report to Cabinet with onward recommendation to Council to approve a fit out budget for the units to enable their letting.

Reason for recommendation:

By renting the space out at a commercial rate the Council will generate an income from this asset and support local businesses by providing suitable employment space.

By accepting this transfer, we will be fulfilling part of our obligation in the local development plan which states: “Part of the site is included in East Devon District Council’s Local Plan 2013-2031 – **Land South of Redgate - Site 040A** – is allocated for employment uses – a total of 0.5 hectares”

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Risk: Low Risk; All leases would be offered to tenants with a sufficient covenant strength to minimise the risk to the Council of default.

Links to background information

Proposed Site Plan

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
 - A greener East Devon
 - A resilient economy
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Report in full

- 1.1 The site at Land to the South of Redgates, Salterton Road, Exmouth was originally purchased by Tesco Stores Ltd in April 2007 to enable an extension to their existing store.
- 1.2 Planning consent was granted in full (ref 10/2016/MFUL) in 2010, however Tesco decided not to implement the consent and instructed their agents to dispose of the site in October 2014.
- 1.3 McCarthy and Stone acquired the site and proposed the development of an Extra Care (Class c2) scheme subject to planning.
- 1.4 McCarthy and Stone's planning application (ref 19/1539/MFUL) was refused and an appeal was also dismissed. The appeal was dismissed due to the loss of employment land and concerns regarding the marketing of the site for employment uses.
- 1.5 A new application, (ref 19/2710/MFUL), was made; officers recommended approval however it was refused.
- 1.6 Another appeal was made in 2021 with amended proposals and responding to the issues raised, consent was allowed on appeal on the 17th of February 2022. The development proposal includes commercial units with an offer, by unilateral undertaking, to build 4 commercial units and transfer the freehold to the Council and 'nil consideration, ie no cost. The Council would need to fit-out the units before letting.
- 1.7 Aside from the Council's possible interest, McCarthy & Stone have informed the Council that they have themselves identified a potential office/distribution centre end user for this location. They are originally from the Exmouth area and as such, they have a personal attachment to the location. McCarthy & Stone would commit to building the units to their specification alongside the delivery of the Assisted Living scheme. This offer would provide the Council with the exact type of local occupier sought when the employment site was originally allocated and release the Council from any ongoing liability over the units. The Council could either proceed with the acquisition taking direct control over the employment uses, but with the cost of fit-out and 'at a risk' of being unable to let the space, or seek to contractually commit McCarthy & Stone to serving up the employment space themselves.
- 1.8 The Council cannot be compelled under a Unilateral Undertaking by the developer to accept this site (land with building to be erected).
- 1.9 The Council could accept the land by a land transfer agreement with no building on it.
- 1.10 Following further clarification on the terms of the freehold transfer from McCarthy and Stone they have confirmed that:
 - The site is to be transferred to the council freehold with a right of way over the access road for nil consideration.
 - The council will not be able to sell/transfer the freehold for a period of 10 years.
 - There will be a service charge to cover repairs/maintenance to the access road. This is yet to be confirmed as we do not currently know the type of vehicle movements and secondly the wider service charge has not yet been calculated. As an estimate this is likely to be in the region of £1500-£2000 per annum – which can be recharged to the tenant(s)
 - This transfer will be subject to agreement of full Heads of Terms.
 - The request from the Council to transfer the freehold must be made within 6 month of date of planning consent being granted i.e 17th of August 2022.
 - It should be noted that the commercial units will require 'fit out' as they will only be provided as 'shell and core' and therefore a budget will need to be agreed by Council for the 'fit out'.

- 1.11 Officers will convene a meeting with the land-owner to discuss the Heads of Terms and to determine the options around the development of the 4 industrial units so that we obtain the most economically advantageous outcome. Which could include:
- The land transfer
 - Negotiations with the landowner in respect of the building the 4 industrial units
 - Fitting the units out in discussion with a tenant(s)
- 1.12 Experience of letting similar units across the District has shown that these would be relatively easy to let especially as the Council has so few units available in Exmouth.

Financial implications:

Details are included in the report, it should be noted that a budget will be required for until fit out should the recommendation be agreed.

Legal implications:

There is no direct comment to be made in relation to this report, each and any individual issue will need to be considered as it arises.