



Name of meeting: Cabinet
Date: 19 March 2019
Title of report: Land at St Johns Avenue, Newsome, Huddersfield
(Former Newsome Working Men's Club)

Purpose of report

To consider a request received by the Council to negotiate the removal of a restrictive covenant on land at St Johns Avenue, Newsome, Huddersfield and look at the alternative of selling the freehold reversion.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Yes
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by Strategic Director & name	Karl Battersby - 21.02.2019
Is it also signed off by the Service Director for Finance?	Eamonn Croston - 8.03.2019
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft - 6.03.2019
Cabinet member portfolio	Cllr Graham Turner (Corporate)

Electoral wards affected: Newsome

Ward councillors consulted: Cllr Karen Allison, Cllr Julie Stewart-Turner and Cllr Andrew Cooper

Public or private: Public report with public and private appendices. The information contained within Private Appendix 3 is legally privileged and considered exempt information Under Paragraph 5 of Schedule 12A to the Local Government Act 1972.

GDPR - This report contains no information that falls within the scope of the General Data Protection Regulation.

1. **Summary**

The land shown edged red on plan reference 15-0437 (attached at Appendix 1) is the site of the former Newsome Working Men's Club premises at St Johns Avenue Newsome, Huddersfield. The Council owns the freehold of the site which is subject to a 999 year ground lease dated 14 October 1905 and supplemental leases dated 21 June 1966 and 4 February 1985 respectively.

Newsome Working Men's Club and Institute Ltd was placed into voluntary liquidation in 2014. The leasehold interest in the premises, which includes the former clubhouse and bowling green, was subsequently marketed in 2015 by liquidators Begbies Traynor. The leasehold interest was purchased by Kathryn Anne Riley ('the Purchaser') on 2nd September 2016 for £200,000.

The supplemental lease for the land upon which the bowling green was located contains a covenant *not to be used for any purpose other than a bowling green or purposes connected therewith*. Historic ordnance survey records show that there has been a bowling green on the site since at least 1922.

The Council has received a request from the Purchaser of the former Newsome Working Men's Club premises to negotiate the removal of the restrictive covenant to allow residential development of the former bowling green land.

2. **Information required to take a decision**

Newsome Working Men's Club and Institute Ltd went into voluntary liquidation in 2014. Liquidators Begbies Traynor were appointed and proceeded to market the property.

The Trustees of Newsome Community Sports and Bowling Club continued to use the bowling facilities under a Licence to Occupy granted by the Trustees of Newsome Working Men's Club (c/o Begbies Traynor) on 20 March 2014.

The leasehold interest in the site was purchased by Kathryn Anne Riley on 2nd September 2016 for £200,000. The Licence to Occupy was subsequently terminated and the Purchaser proceeded to remove the bowling green and club house facilities from the site.

In 2015, prior to acquiring the leasehold interest, Ms Riley submitted a request to the Council to negotiate the removal of the restrictive covenant to allow housing development on the bowling green land. This request was considered and refused by the then Assistant Director - Place.

Outline Planning Permission was granted on 28 November 2017 (Application and Decision Notice attached at Appendix 2) for residential development of the land. The Purchaser has now submitted a further request for the Council to reconsider its position and negotiate the removal of the restrictive covenant.

The Council as freeholder has the following options:

- i) Refuse the application to remove the restrictive covenant.
- ii) Negotiate with the Purchaser to either remove the covenant or dispose of the freehold reversionary interest in the land.

If this latter option was chosen then the Purchaser could merge the leasehold interest in the freehold reversion and the covenant would be extinguished.

Newsome Bowling Green is listed as an Asset of Community Value. This does not have any implications for the Council as freeholder in negotiating the removal of the restrictive covenant or disposal of the freehold reversionary interest.

Officers have sought advice with regard to the covenant and options available from an external specialist in property litigation. The advice received, together with a summary of options, is set out in Private Appendix 3.

3. Implications for the Council

3.1 Working with People

The Council's delegation scheme provides for leasehold negotiations to be delegated to officers. Newsome Ward Members have raised objections on behalf of Newsome residents at the loss of the bowling facilities and proposals to redevelop the land. The matter is therefore being reported to Cabinet for a decision. The Council has also received and considered representations from Newsome Ward Community Forum Limited regarding the proposals.

3.2 Working with Partners

There will be no impact

3.3 Place Based Working

Officers have considered the impact of the loss of the bowling facilities in response to objections raised by Ward Members on behalf of the community.

Newsome Working Men's Club was a private members club. The facilities were not therefore open to public use. According to Council and Huddersfield & District Crown Green Bowling Association records as at December 2018 there are 56 crown bowling greens within the Huddersfield district, 3 of which are within the Newsome Ward boundary.

3.4 **Improving outcomes for children**

There will be no impact.

3.5 **Other (e.g. Legal/Financial or Human Resources)**

Both the removal of the restrictive covenant or the sale of the freehold reversion extinguishing the covenant would provide the Council with a capital receipt and revenue income through Council Tax receipts. Officers in Legal, Governance and Commissioning would need to complete the relevant documentation to give effect to the release or the sale of the reversion.

4. **Consultees and their opinions**

Newsome Ward Members have been consulted and comment as follows:-

Cllr Andrew Cooper- I am appalled that Kirklees would surrender on the conditions of the lease. To essentially reward the vandalism of a 100 year old bowling green goes against natural justice and I could never support it. So please keep the restrictive covenant on the land and show that community and decency mean more than money and personal greed.

Cllr Karen Allison- Over the years many people have worked tirelessly to maintain the bowling green and keep it to its once high standard, this bowling green was once classed as one of the best bowling greens in the Yorkshire League. Many generations have enjoyed not just the bowling green but the activities that the pavilion has held from coffee mornings to craft groups to just a place to go and have a chat with friends. This has now gone due to the Lease Holder destroying the site and turning it into a dumping ground.

I am strongly opposed to the lifting of the restrictive covenant for this land. I feel that it will give others the encouragement to do the same and that the Council are accepting unacceptable behaviour from certain people such as this Lease Holder.

Cllr Julie Stewart-Turner- I am strongly opposed to the removal of the restrictive covenant for the land at St Johns Avenue. I see the removal of the covenant as the Council rewarding very poor behaviour, and this could encourage others to do the same. This land was used frequently by a well-established local bowling club, who were also part of local and regional leagues. The bowling green was reported to be one of the best bowling greens used by the Yorkshire League. The pavilion on the land was also used by other local community groups, until the pavilion and the green were destroyed by the lease holder, causing great distress to many local people. Just because the lease holder turned the site into a mess, does not mean it can't become a valued open space for the local community, and eventually become a bowling green again.

Newsome Ward Community Forum Limited has submitted a representation regarding the proposals which is attached at Appendix 4.

5. Next steps and timelines

Subject to Cabinet approval, officers from Strategic Assets to commence negotiations and agree heads of terms with the Purchaser to either remove the restrictive covenant or dispose of the freehold reversion in respect of the land at St Johns Avenue, Newsome, Huddersfield in order that the Purchaser can merge her leasehold interest in the reversion in order to extinguish the covenant.

Officers from Legal, Governance and Commissioning to prepare and complete the necessary documentation to either remove the covenant or dispose of the freehold reversion on the terms to be agreed.

6. Officer recommendations and reasons

It is recommended that having considered the objections of the Newsome Ward Members and Newsome Ward Community Forum Limited:-

- 6.1 Cabinet note the objections of the Newsome Ward Members and Newsome Ward Community Forum Limited.
- 6.2 Notwithstanding the objections authority be delegated to the Strategic Director - Economy and Infrastructure to negotiate and agree terms for either the removal of the restrictive covenant or disposal of the freehold reversionary interest in the land at St Johns Avenue, Newsome, Huddersfield based on the information set out in Private Appendix 3.
- 6.3 Notwithstanding the objections authority be delegated to the Service Director - Legal, Governance and Commissioning to enter into and execute all necessary documentation to remove the restrictive covenant or dispose of the freehold reversionary interest in the land.

7. Cabinet portfolio holder's recommendations

The Cabinet Portfolio Holder recommends that:-

- 7.1 Cabinet note the objections of the Newsome Ward Members and Newsome Community Forum Ltd.
- 7.2 Notwithstanding the objections Cabinet delegate authority to the Strategic Director - Economy and Infrastructure to negotiate and agree terms for either the removal of the restrictive covenant or disposal of the freehold reversionary interest in the land at St Johns Avenue, Newsome, Huddersfield based on the information set out in Private Appendix 3.

- 7.3 Notwithstanding the objections Cabinet delegate authority to the Service Director - Legal, Governance and Commissioning to enter into and execute all necessary documentation to remove the restrictive covenant or dispose of the freehold reversionary interest in the land.

8. **Contact officer**

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9. **Background Papers and History of Decisions**

Appendix 1. Red line boundary plan reference 15-0437
Appendix 2. Planning application and Decision notice 2015/60/91664/W
Appendix 3. Counsel opinion and summary (Private)
Appendix 4. Newsome Ward Community Forum Limited representation

10. **Service Director responsible**

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