

Record of officer decision

Decision title:	Consent to remove restrictive covenant from part of the grounds of a dwelling house at 13 Blenheim Close, Hereford
Date of decision:	27 October 2020
Decision maker:	Assistant Director for Technical Services
Authority for delegated decision:	The economy and place directorate's scheme of delegation dated 15 October 2020 (line 60) gives the Assistant Director for Technical Services the authority to take the decision
Ward:	Eign Hill
Consultation:	None
Decision made:	Council agrees to release the restrictive covenant limiting the use of property in return for owner paying a market rate fee plus costs
Reasons for decision:	<p>This is a historical restrictive covenant that was applied as standard practice on domestic properties either when council houses were sold under right to buy or residential land was made available for private development as part of a larger housing scheme.</p> <p>Whilst the council retains open space in the locality, in this case it is considered that there is no reasonable practical benefit in retaining this restrictive covenant.</p> <p>Planning permission has already recently been granted for residential development.</p> <p>As there is a significant uplift in value by releasing the covenant, a commercial fee has been agreed for its release.</p>
Highlight any associated risks/finance/legal/equality considerations:	<p>Whilst the Council retains land in the locality, releasing the covenant to allow the development is unlikely to have a significant detrimental impact on this land.</p> <p>The future use of the land can be managed in the public interest by planning powers.</p> <p>Releasing the covenant allows an additional residential dwelling to be built within Hereford City.</p> <p>If the Council were to refuse consent to release the covenant or to allow specified works then the landowner could apply to tribunal for the works to be allowed; in the event that the tribunal lifted the covenant there is the risk that any payment may be limited to the financial loss to the Council that would be difficult to evidence. Tribunals are generally perceived as a method of last resort and typically result in significant time delay and costs for both parties.</p> <p>Legal have been consulted and have advised on the desirability and proposed mechanism for releasing the covenant; legal will complete the legal documents required.</p>
Details of any alternative options considered and rejected:	<p>There is no significant benefit for the Council to refuse releasing the covenant that would likely incur time delay and significant costs to both parties.</p> <p>Retaining the covenant but allowing specific development would require significantly greater documentation and ongoing management with no reasonable benefit to either party. This option has therefore been discounted.</p>
Details of any declarations of interest made:	None

Signed
(Assistant Director for Technical Services)

Date: 27 October 2020