

EXECUTIVE DECISION RECORD SHEET

Name of Portfolio Holder: Cllr Graeme Elliot

Portfolio: Finance & Resources

Date of Report: 07/07/15

Title of Report:

114 Windmill Road, Hemel Hempstead – land sale and residential development consisting of one unit

Decision made and reasons:

1. Sale of the freehold interest of land to the side and rear of 114 Windmill Road, Hemel Hempstead for the sum of £60,000.
2. Variation to the restrictive covenants in the conveyance of 114 Windmill Road relating to the residential development for the sum of £10,000.
3. Easement for vehicle and pedestrian access over the Council's footpath for the sum of £1,500.

The purchaser to pay the Council's reasonable legal fees and surveyor fees.

All of the above are to be granted at the same time and not on individual basis.

A restrictive covenant to be included to reflect that the land sold is to allow for only one additional dwelling unit. If the subject land is to be used as gateway for additional dwellings within 114 Windmill Road curtilage or neighbouring properties, there will be a claw back provision requiring an appropriate proportion of the increase in the value of the subject land.

Background

Mrs Bhavna S Kotecha, the owner of 114 Windmill Road Hemel Hempstead, has requested to purchase land to the side and rear of her property in order to build one additional residential unit on the subject land and also staggered into the curtilage of 114 Windmill Road.

Part of the subject land (see plan 1) used to provide access to the Council garages to the rear of 114 Windmill Road. However, the Council garage site was incorporated into a housing development with the access road to the former garages becoming redundant. This access road is the land to the side of 114 Windmill Road and has been fenced off but is being misused for fly tipping. The small piece of land lying to the rear of 114 Windmill Road has been incorporated into the Driftway development amenity area but because of its concealed position is attracting anti-social behaviour.

114 Windmill Road was sold on 17th November 1982 with no rights over the subject land. A garage was later constructed in the rear garden of 114 Windmill Road but no planning permission was obtained and no right of way was granted over the Council's land for access. The access way to the garages lying to the side of 114 Windmill Road was fenced off a couple of years ago when the garage site was demolished and the access way was no longer needed. The owners of 114 Windmill Road have not used this access way since this time.

The subject land would be used for one additional residential property. The applicant has been in discussion with the Council's Planning department regarding their development proposals but to date no formal planning application has been made.

Provisional terms have been agreed with Mrs Bhavna S Kotecha as follows:

1. The sale of the land for development purposes:-

Purchasers: Mrs Bhavna S Kotecha

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Consideration:	£60,000 (sixty thousand pounds)
Use:	Development for one additional detached residential property
Tenure:	Freehold with vacant possession on completion
Boundaries:	Purchaser to erect and maintain the boundaries
Costs:	To pay the Council's reasonable legal of £420 plus VAT and surveyor fees of £250 plus VAT

2. Variation in the restrictive covenant relating to the use of the property –

Consideration	£10,000
Costs	Applicant to pay the Council's legal fees of £420 plus VAT and surveyor fees of £250 plus VAT.
Restrictive Covenant to be varied	Third Schedule Clause 1 ' <i>not to use the property otherwise than for the purpose of a private dwellinghouse</i> '. This covenant would be varied to allow for one detached dwelling within the curtilage of 114 Windmill Road, Hemel Hempstead.
Costs	To pay the Council's reasonable legal and surveyor fees

3. An easement over Council footpath to provide access to the new property

Consideration	£1,500
Costs	To pay the Council's reasonable legal and surveyor fees

Financial Analysis

Officers / Councillors / Ward Councillors / Stakeholders Consulted:

Group Manager (Commercial Assets & Property Development)
 Team Leader, Valuation and Estates
 Team Leader, Property and Place
 Team Leader, Neighbourhood Action
 Lead Planning Officer

Monitoring Officer/Chief Financial Officer Comments:

Monitoring Officer: - No further comments to add to the report.

Deputy Section 151 Officer: - The option proposed demonstrates best consideration for capital receipt of the land identified that will help to fund capital developments.

Implications:

Risk:

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Value for Money:

Options Considered and reasons for rejection:

The subject land is formed from two parcels:

1. Land to the **side** of 114 Windmill Road being a former access road to Council garages to the rear of the property. The land is currently fenced off and is misused for fly tipping
2. Land to the **rear** of 114 Windmill Road, which was also previously part of access to the Council garages, has been incorporated into amenity land for the benefit of the Driftway flats as required by a housing association planning application for the development of land adjacent to 68 Windmill Road. However due to the location of this amenity land being in a sheltered location its value as an amenity area has not come to fruition, with Neighbourhood Action identifying this site as an area experiencing anti-social behaviour.

The Council has considered the subject land to the side and rear of 114 Windmill Road for development purposes but it was deemed too small by itself. The Planning Department have been consulted and they would consider a change of use for all the subject land.

Both parcels forming the subject land could be retained by the Council with the land currently fenced off being incorporated into amenity land for the Driftway flats. However Property and Place have identified that the Driftway has sufficient amenity land already.

The proposed sale of the land generates best consideration given the sale price represents an increase over the current use value of the land and would reduce the costs of its long term maintenance.

The land has not been offered to neighbouring home owners as it does not directly abutt any other properties.

Portfolio Holders Signature:

Date:

Details of any interests declared and any dispensations given by the Standards Committee:

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Date Decision Record Sheet received from portfolio holder: 02/07/2015

Date Decision Published: 07/07/2015

Decision No: PH-015-15

Date of Expiry of Call-In Period: 14/07/2015

Date any Call-In received or decision implemented: