

## Policy Committee

11 September 2017

### Release of Covenant – Land at Carleton in Craven



Report of the Director of Services

Lead Member Housing – Councillor Foster

Ward(s) affected: Carleton in Craven

#### 1. Purpose of Report

- 1.1 Carleton Parish Council has requested that a covenant on land in its ownership (and formerly in the ownership of Craven District Council) be lifted in order that proposals to develop the land for community led housing might progress. The report recommends that Craven District Council approves the completion of a deed of release in order to release the covenant.

#### 2. Recommendations

Members are recommended to:

- 2.1 Approve the completion of a Deed of Release for a consideration of £24,000 in order to release the covenant at New Street, Carleton in Craven for the provision of community led housing
- 2.2 Approve that Carleton Parish Council be asked to make a contribution of £400 towards the District Council's costs in completing the Deed of Release.

#### 3. Report

- 3.1 In 1984, Craven District Council conveyed a small site at New Street, Carleton to Carleton Parish Council for use as amenity land (see Appendices A and B). A positive covenant contained within the conveyance placed a contractual obligation on the parish council to maintain the land as such. A positive covenant is an obligation to do something, and it is a personal covenant, unlike a restrictive covenant which is an obligation not to do something and which also binds successors in title to the land concerned.

- 3.2 Carleton Parish Council has recently approached the District Council and asked that the covenant be released. Despite its efforts over the years, the land has remained underutilised and as a result is now overgrown and not usable amenity space for the village. Other uses for the land have been considered, including for car parking, however none of the options proposed so far have proved to be viable and the parish council is firmly of the view that the best use of this land is as a small development of affordable homes for the benefit of the local community.
- 3.3 In December 2016, Craven District Council was allocated £606,000 under the government's Community Housing Fund (CHF) programme. This fund is intended to support the provision of community led housing, including as a contribution towards start-up costs for community groups, site feasibility work, land acquisition and /or development costs. Whilst talks about the best way to address housing need have been ongoing with Carleton Parish Council since late 2015, the CHF now provides a real opportunity to make homes for local people happen.
- 3.4 Carleton Parish Council is currently working with a housing association on the project and a small development of two bungalows is under consideration for the land at New Street. Design work is being carried out at risk by the housing association. No planning application has as yet been made, but releasing the covenant on New Street would allow the parish council to submit a bid to the CHF and progress its affordable housing proposals. At its meeting of 11 April 2017, Policy Committee agreed that approval for bids to the CHF would be delegated to the Director of Services, in consultation with the Leader, the Lead Member for Housing, the Ward Member (s) and the s151 Officer. Assessment criteria include value for money, community involvement and timescales for development. Before it carries out more work on bid preparation and incurs more expense, the parish council is seeking confirmation that the covenant may be released.
- 3.5 The advice of the in-house legal team is that this is a positive covenant - a personal obligation that does not bind successors in title to the land. That said; it was Craven District Council that requested the covenant be imposed when the land was conveyed in 1984 as the conveyance to the Parish Council was for an undervalue. It is therefore necessary to ask Members to approve its removal.
- 3.6 The District Valuer has been asked to value the land at Carleton, on the basis of the release of the covenant. Its valuation, dated 11 August 2017, is for £28,500. It assumes the land has been cleared and is free from contamination. It also assumes its use is restricted to affordable housing. Releasing the amenity land covenant in favour of an affordable housing covenant will enhance the value of the land. As amenity space it has a modest value of £4,500 or thereabouts. Netting this off the enhanced value gives a price of £24,000 and it is therefore recommended that this be the amount sought should the covenant be released, as well as a contribution of £400 towards the District Council's legal fees.

3.7 Removal of the covenant will enable Craven District's first community led housing scheme to progress, whilst providing much needed affordable housing in a parish that is actively seeking to provide homes for its local community.

#### **4. Implications**

##### **4.1 Financial**

There are no financial obligations on the Council other than legal costs associated with providing the Deed of Release. If approved, it is suggested that Carleton Parish Council be asked to contribute towards these costs. All legal work required to provide a Deed of Release will be completed in house.

In addition, and subject to release of the amenity covenant and development of the site for community- led housing, the Council will receive a capital receipt of £24,000. This is the enhanced land value, over and above amenity use value.

##### **4.2. Legal**

Legal implications are included within the body of the report.

#### **5. Contribution to Council Priorities -**

The recommendations directly contribute to a number of Council Priorities, namely:

- **Enterprising Craven**

Supporting the provision of 214 homes per year across Craven to meet the needs of our current and future communities

- **Resilient Communities**

Enable active communities and improve quality of life

#### **6. Risk Management**

There are no risks associated with releasing the covenant for the purpose of delivering affordable housing in perpetuity.

## **7. Equality Impact Assessment**

The Council's Equality Impact Assessment Procedure **has been** followed. An Equality Impact Assessment **has not** been completed on the proposals as completion of **Stage 1- Initial Screening** of the Procedure identified that the proposed policy, strategy, procedure or function **does not have** the potential to cause negative impact or discriminate against different groups in the community based on •age • disability •gender • race/ethnicity • religion or religious belief (faith) •sexual orientation, or • rural isolation.

## **8. Consultation with others – Legal, Finance and Planning Policy**

The Council's Legal, Financial and Asset and Commercial Services have been consulted.

## **9. Access to Information: Background Documents**

None

## **10. Author of the Report**

Jenny Wood – Affordable Housing Development Officer

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

## **11. Appendices**

Appendix A – Plan of area of land in question

Appendix B – Minutes of Craven District Council Meetings 1983 and 1984