

## **Record of Officer Decision**

### **Appropriation of Land at 10 Old Mill Road, Torquay**

#### **Decision Taker and Date Decision Taken:**

Chief Executive of Torbay Council, in consultation with the Elected Mayor and Group Leaders, on 13 August 2018 in accordance with paragraph 1.19 of the Officer Scheme of Delegation.

#### **Summary of Matter or Issue Requiring Decision:**

It was proposed that powers of Appropriation were used to enable the sale of the Torbay Council asset 21 Old Mill Road, Torquay, TQ2 6AU (known as the former Cockington School) to facilitate a high-quality residential development. The building occupies a prominent position adjacent to the Chelston Local Centre and Sherwell Park. The school closed many years ago and the current condition makes it impossible to accommodate a modern commercial function without significant and unviable expense. Prior to marketing the site for sale the Council marketed the building for lease for a period of 4-5 months. During this time there were no suitable offers for the building.

The site is now the subject of significant and ongoing anti-social behaviour and has therefore become a burden to limited resources across both the Council and Police.

The property is listed in the Torquay Neighbourhood Plan as suitable for in the region of 20 dwellings using previously-developed land. The site is also likely to contribute towards the delivery of an element of affordable housing in accordance with Local Plan policies.

The proposal will assist the Council in being able to dispose of the site and obtain a capital receipt to help fund the capital programme as well as contribute towards the Bay's housing needs.

The property is subject to various restrictive covenants contained in a 1922 conveyance. This negatively impacts the confidence of potential investors and funders to proceed with a development. Torbay Council legal services have advised that by using the powers of Appropriation within the Local Government Act 1972 and Housing and Planning Act 2016 then works could proceed without the threat of injunction, thereby providing some comfort to facilitate development.

#### **Decision Taken:**

- (i) that the Council uses Section 122 of the Local Government Act 1972 to appropriate the former Cockington Primary School site at Old Mill Road, Chelston, Torquay for planning purposes as it is no longer required for the purpose for which it is currently held; and
- (ii) that subject to (i) above the Council uses its powers under Section 203 of the Housing and Planning Act 2016 and allows works which are in breach of easements and other private rights (subject to payment of compensation) where there is planning permission for the development.

#### **Summary of Reason(s) for Decision Taken:**

This decision is required to overcome the restrictive covenants affecting the land which potentially gives owners of other land (with the benefit of those covenants) the opportunity to apply for an injunction to prevent development. If the Property is appropriated for planning

purposes, those with the benefit of the covenants would still be entitled to financial compensation for breach of the covenants, but there would no longer be the prospect of an injunction preventing redevelopment altogether.

In the spring of 2018 Torbay Council ran a tender process through the Council's online tendering portal and have now selected an applicant to progress the conversion and development of the site.

In the event that a satisfactory residential planning approval is granted for the property then the Council will receive a capital receipt and end its ongoing liability for maintenance of the Property. During this time the developer will pay to the Council a non-refundable deposit.

**Summary of Alternatives or Options considered and rejected and Background Papers:**

Alternative options were set out in the exempt briefing note.

**Details of any conflict of interest and dispensation granted to the Officer taking the decision or by any Member of the Council in delegating responsibility for any specific express delegation:**

None

**Implementation:**

This decision will come into force immediately.

A copy of this decision and any supporting documentation considered by the Officer taking this decision may also be available for inspection by the public at the Council's offices or posted upon payment of any copying and postage charges. Any member of the public wishing to take up either of these options is asked to please ring (01803) 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

Signed: \_\_\_\_\_ Date: 13 August 2018  
Chief Executive Torbay Council