

Agenda item:

**Decision maker:** Cabinet

**Date of Meeting:** 3<sup>rd</sup> February 2014

**Subject:** Freehold Disposal and Removal of Restrictive Covenant in respect of land at Anson Road, Fratton

**Report by:** Head of Corporate Assets, Business and Standards

**Wards affected:** Fratton

**Key decision (over £250k):** Yes

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**1. Purpose of report**

1.1 To seek authority to:

1.2 Dispose of the freehold interest in Area 1 of the former Jayhards Site to the existing long leaseholder and;

1.3 To release the restrictive covenant in respect of land sold by the City Council in 2003 to BT.

1.4 To grant consent in the City Council's capacity as Landlord to an assignment of the lease of Area 2 of the Jayhards Site to Portsmouth Community Football Club Limited and a change of use to car parking.

1.5 The parcels of land referred to are shown on the attached plan.

**2. Recommendations**

It is recommended that:

2.1 The Head of Corporate Assets, Business and Standards be authorised to dispose of the freehold interest in Area 1 of the Jayhards Site to Point Estates LLP, for the consideration as detailed in the exempt appendix of this report.

2.2 Landlord's consent be granted for an assignment of the leasehold interest in Area 2 Jayhards Site from Point Estates LLP to Portsmouth Community Football Club Ltd and a change of use (subject to Planning consent) to car parking.

- 2.3 That the City Council release the restrictive covenant in its favour affecting the former BT Site for the consideration detailed in the exempt appendix of this report.
- 2.4 The City Solicitor be authorised to conclude all legal documentation relating to this matter.

### **3. Background**

3.1 The existing lessee, Point Estates LLP, is proposing to construct a large Tesco supermarket and petrol filling station at the above mentioned location. In addition to the terms outlined in this report, the implementation of the development will upon the granting of planning consent result in the existing lessee making substantial monetary payment(s) to Portsmouth Community Football Club Ltd in order to facilitate ground improvements and the provision of additional car parking to the North of Fratton Park. It is intended that these payments will be administered by the City Council.

3.2 Details of the existing tenure arrangements (by reference to the attached plan) are as follows:

#### **Areas 1 and 2 Former Jayhards Site 17-21 Anson Road - Lease dated 10<sup>th</sup> August 1953**

3.3 The freehold interest in this (0.99 acre) site is owned by the City Council. This land is let on a 99 year lease wef December 1949 at a fixed ground rental of £290 per annum exclusive. The land is shown edged red on drawing no. AR/PM/01. The Lessee is Point Estates LLP.

#### **Former Liningtons Site 75 Alverstone Road - Lease dated 7<sup>th</sup> October 1986**

3.4 The freehold interest in this (0.65 acre) site is owned by the City Council. This land is let on a 125 year lease wef 1<sup>st</sup> November 1985 at a current ground rental of £2,100 per annum exclusive. The Land is shown edged Green on drawing no. AR/PM/01. The Lessee is Point Estates LLP.

#### **Former BT Site, Anson Road**

3.5 The freehold interest in this (2.93 acre) site was sold by the City Council to Portsmouth City Football Club Ltd in 2003 for £1,200,000. This land was subsequently purchased from Miland Development 2004 Ltd (in administration) by Point Estates LLP in 2013. This land is shown edged Blue on drawing no.AR/PM/01.

#### **4. The Proposal**

- 4.1 In order to facilitate the proposed development, it will be necessary for Point Estates to acquire the freehold interest in that part of the site located to the west of Anson Road and already held by them on a long lease (Area 1). It is intended that the leasehold interest in the remaining land, (Area 2 Jayhards Site), will be assigned to Portsmouth Football Club in order to provide car parking. This will also include land at 75 Alverstone Road which is also currently let on a long lease.
- 4.2 In addition, the City Council, in 2003, sold its freehold interest in the former BT Site. The transfer contained a restrictive covenant which provided that the Transferee was: "Not to use the Property for residential purposes nor for the retail sale of goods provided that the use of the Property for retail purposes which are reasonably ancillary to the Transferee's use of the Property as a football stadium shall not be prohibited..."  
In order to permit the supermarket development to take place, consent is required from the City Council to remove this covenant for which consideration is due as detailed in the exempt appendix of this report.

#### **5. Financial Considerations:**

##### **The Offer:**

See Exempt Appendix 1.

#### **6. Equality impact assessment (EIA)**

Not required

#### **7. Legal Implications**

- 7.1 In disposing of the land the statutory constraints in Section 123 Local Government Act 1972 must be taken into account.
- 7.2 Under s123 of the Local Government Act 1972 the Council may dispose of any land in any manner they wish provided that it must be for the best consideration that can reasonably be obtained. If the disposal is not for the best consideration obtainable then the consent of the Secretary of State will be required.
- 7.3 See Exempt Appendix 1.

#### **8. Head of Finance's comments**

See Exempt Appendix 1

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Signed by:  
Alan Cufley, Head of Corporate Assets, Business and Standards

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Nil	

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

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Signed by:  
Cllr Gerald Vernon-Jackson, Leader of the City Council