

Report to Portfolio Holder for Resources and Reputation

Subject: Deed of Release of Easement for land at Station Road

Date: 3 August 2021

Author: Property Services Manager

Wards Affected

Carlton

Purpose

To seek approval to enter into a Deed of Release of an Easement with Severn Trent Water for the land at Station Road, Carlton.

Key Decision

This is not a Key Decision

Recommendation(s)

THAT:

Approval is given to enter into a Deed of Release of an Easement at land at Station Road, Carlton with Severn Trent Water to extinguish a right of way over the land.

1 Background

- 1.1 The Council have been exploring development options for the Council owned site at Station Road, Carlton (shown edged red on the plan at Appendix 1).
- 1.2 As part of the feasibility work undertaken for the site, checks with the Land Registry identified that Severn Trent Water (STW) have an existing Right of Way (RoW) over the site to gain access to and egress from their

pumping station pursuant to a legal agreement entered into in 1987. The ROW is shown hatched green on the plan at Appendix 1.

- 1.3 There is a now perpendicular drop where the Council's site meets the STW site. It is therefore not practicable for STW to service the pumping station using this ROW without being in breach of the agreement as the ROW only permits them to travel over the site and does not permit them to park vehicles on the land. This is no longer an issue in practical terms as for the past 4 years approx. STW have accessed the pumping station from the neighbouring land in the adjoining car park of the Crossing Social Club. Notwithstanding this, STW still have the benefit of this ROW and could use this ROW in the future.
- 1.4 The RoW cannot be extinguished or removed from the Council's legal title without the express consent of STW, even though STW no longer use the RoW.
- 1.5 The size and location of the RoW would seriously impede the Council's ability to develop the site. The Council's is currently considering proposals to develop a scheme for the site involving the constructions of 10 units of residential accommodation. Unless the RoW is released by STW, the development of the site would have to accommodate and preserve the RoW.
- 1.6 The Council has entered into discussions with STW and STW will agree to extinguish the RoW for a fee of £14,000 inclusive of legal fees.
- 1.7 In view of the impact which the existing RoW has on both the future development and value of the site, officers are seeking approval to accept the offer from Severn Trent to pay £14,000 to extinguish the RoW. This will be secured by entering into a Deed of Release with STW.

2 Proposal

- 2.1 It is proposed that the Council enter into a Deed of Release with Seven Trent Water to release an easement over land at Station Road, Carlton for a fee of £14,000.

3 Alternative Options

- 3.1 One alternative option is not to enter into a Deed of Release and leave the easement in place however this would limit future development of the site, including both the number of residential units that be constructed if approval is given for residential development and the layout of the

development. It would also not be ideal to have STW tankers coming through a residential site to access the pumping station.

4 Financial Implications

4.1 The Council would pay Severn Trent Water £14,000 inclusive of legal fees for the Deed of Release.

4.2 The fee will be taken from the capacity fund.

5 Legal Implications

5.1 STW have the benefit a right of way over the Council's land at Station Road, Carlton via an express easement granted on 12th February 1987. This gives STW a right of way over the route shown on the plan at Appendix 1 at all times with or without vehicles to pass over the land to gain access to and egress from their adjacent pumping station. The easement can only be extinguished with the express agreement of STW which must be recorded in writing in a deed. Upon completion of a Deed of Release, STW will no longer have the benefit of the right of way and reference to it will be removed from the Council's registered title with HM Land Registry.

6 Equalities Implications

6.1 There are no equalities implications arising from this report.

7 Carbon Reduction/Sustainability Implications

7.1 There are no carbon reduction/sustainability implications arising from this report.

8 Appendices

8.1 Appendix 1 - Plan

9 Background Papers

9.1 None identified.

10 Reasons for Recommendations

10.1 To allow the Council to develop the site without the restriction of the right of way.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer