

Work Programme Suggestion Form
1 3 2021

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Proposed Scope / Focus of Review

Please Note. *This request does not relate to a planning application, rather that a political decision is sponsoring a promotion of a site for development by Horsham District Council (as landowners) rather than retaining its existing use as a golf course.*

1) Covenants

- a. In 1986 HDC paid £1,362,865 for the 132.2 Acres now popularly known as "Rookwood". This land was referred to as "The First Land" in the document and, at the same time, HDC purchased 2 bordering areas which were referred to as "The Second Land" and "The Third Land"
- b. The contract with the Vendors committed HDC to several obligations through "qualifying events" which appear to expire after 80 years for the first land. This short legal document should be reviewed by the Scrutiny Committee to assess what HDC are legally obliged to pay away for the benefit of previous owners if selling Rookwood now, versus waiting until at least after the expiry of the 80 years to 2066?

Exempt Comment – Appendix 1

- c. The restrictive covenants are different for each of the 3 Lands and are specific to each. For example, the Fifth Schedule states that Approved Development in the second and third lands shall mean "for use as a hotel motel travel lodge or golf course".
I ask, can HDC legally provide a School as offered as a possibility in their recent promotions?

Building a school on land with a user covenant that restricts only to residential, shop, office or industrial purpose would be a breach of covenant. The covenant would have to be amended or released by the Lucas Trust.

- d. The s106 agreement in 1992 and the sale of part of Rookwood by HDC required a per dwelling plot size of not less than 0.13 hectares (0.32 acres). The current promotions by HDC ignore these requirements and would reduce the quality of the built environment.

The agreement referred to is the development of the housing at Rookwood, which are homes set in substantial grounds. Things have moved on considerably since 1992 and we now need to address matters of climate change and sustainability. High density does not equal low quality build environment, there are plenty of examples of high quality, high density living.

HDC in its capacity as the landowner owner seems to be unduly influencing HDC as a planning authority with insufficient segregation of the process, thereby avoiding scrutiny?

The Council is following a robust and lawful process with regard to dealing with the proposal at Rookwood as both the Landowner and planning authority.

2) Finance

The financial justification for a near term sale, taking into consideration matters such as: -

- a. Transactional and marketing costs?
- b. Capital Gains Taxes that may arise from a sale?
- c. The 50% benefit that may be payable to the previous vendors IF sold within 80 years from 1986?
- d. Possible legal restrictions, and moral obligations?
- e. Review the net value of a sale now v keeping the site as an asset and an investment. If HDC need to invest to earn rental income revenue from affordable homes, it is possible to borrow via the PWLB at historically low rates.
- f. Some Councillors describe Rookwood Golf as loss making and “a bad debt” but few people with knowledge of the finances agree. In fact, in non covid times I believe the facility has been running at surplus and I ask if is possible this surplus could be greater if the management is not outsourced to British Ensign Golf of Slinfold?

I think the question being asked above is whether the Local Authority would satisfy the requirements of obtaining “the best price reasonably obtainable in the market”, pursuant to section 123 of the Local Government Act 1972, if the land being disposed of is subject to a live overage clause, in favour of a predecessor, and which requires that 50% of the consideration received upon disposal of the subject land be paid to that predecessor. Or, should the local authority wait until the overage provisions fall away?

A local authority would not have to wait until the clawback period has expired and their duties under section 123 of the Act are limited to the best value that can be obtained at the time of the disposal. S123 of the Act grants local authorities’ powers to dispose of land held by them in any manner they wish.

Accordingly, it is legitimate for the Council to proceed with a disposal of the property so long as best value is obtained at the time of the disposal. The clawback clauses are not material consideration when making a decision under S123 of Local Government Act.

Details of the accounts for the Golf Club at Rookwood have already been circulated to members. This is commercially sensitive and will not be disclosed to the public.

Your Rationale for Selection

- 1) HDC are managing and sponsoring a PR initiative, with outsourcing to Land Promoters, to show what may be aspirational to some of the community if Rookwood is confirmed as a development site following the Regulation 19 Consultation.

The sponsors have taken on board many of the responses from Regulation 18 consultation but most of the output is purely hypothetical. It is not an approved planning application.

Indeed, if approved, Land Developers will study the proposals and consider them in relation to the restrictions and obligations that were legally binding from 1986. They will also seek to maximise their own returns.

These vendor obligations need to be studied as soon as possible and before voting.

- 2) I am fearful that HDC are rushing into a sale of one of the few remaining high value assets prematurely?
Aside from the green space arguments, if the land must be sold, which I doubt, surely it would be better retaining the irreplaceable asset, as an investment, and sell at a time when HDC will enjoy 100% of the benefit whilst continuing to benefit from the income receipts from the land?

Evidence

Ref 1) above :- Land Registry Document Conveyance Sale to HDC 1986 Title Number WSX107818 2.(ii) and, The Fourth Schedule

Ref 1)d, above:- HDC Planning Approval HU/69/92 and Supplemental S106 26/1/1993

Ref 2)e above:- <https://www.dmo.gov.uk/responsibilities/local-authority-lending/current-interest-rates/> and my own calculations – available upon request

Ref 2)f, above:- To my knowledge, evidence is not available for public scrutiny.

Desired Outcomes/Objectives/Possible Terms of Reference

Much has been said, both for and against, the proposed development at Rookwood.

The choices our Councillors make will be make a significant impact in Horsham for generations to come and I am hopeful that the Scrutiny Committee can take a step back, and independently check the facts before any decisions are made. In fact, I am not sure how Councillors can vote on such an important transaction without first knowing the full details of my points 1 and 2 above?

Other Comments

Following the closure of other golf courses in the district, is it not incumbent on HDC to look at the business and leisure case for the continuation of Rookwood Golf, taking these into account, and to publish this before determining the alternative uses of the site?

Time Scale = Urgent