



Agenda Item No: 2.4

## Partial Release of Legal Charge

To:	Housing and Communities Committee
Meeting Date:	11 July 2022
Public report:	Yes
Lead Member:	Councillor Lewis Herbert, Lead Member for Housing and Communities
From:	Roger Thompson, Director of Housing and Development
Key decision:	No
Forward Plan ref:	N/A
Recommendations:	<p>The Housing and Communities Committee is recommended to:</p> <p>Grant conditional consent to release part of a legal charge applied to land at the former MOD housing site at Ely.</p>
Voting arrangements:	A simple majority of all Members present and voting.

# 1. Purpose

- 1.1 This report seeks a decision from the Housing and Communities Committee following a request to release part of a legal charge that is held by the Combined Authority as security for a loan that was made from the 2021-2022 Affordable Housing Programme (AHP).
- 1.2 The Board approval of 8<sup>th</sup> November 2019 authorised the Director, Housing in consultation with Legal Counsel and Portfolio Holder Fiscal to conclude any necessary legal documentation to secure the loan, to include a charge upon the land. As the matter could alter loan security officers consider it appropriate to refer this decision to the Housing and Communities Committee.

# 2. Background

- 2.1 On 28<sup>th</sup> November 2018 the Combined Authority's Board approved the grant of a loan of £24.4M from the AHP to East Cambs Trading Company Limited (ECTC) to refurbish 92 former MOD homes including 15 affordable homes adjacent to the Princess of Wales hospital in Ely.
- 2.1 The loan was secured by way of a legal charge affecting the freehold title to the development site owned by ECTC as shown on the plan at Appendix A. This includes land that is the subject of a current planning application for 27 residential units (ECDC ref: 20/01006/FUM) that has yet to be determined, in addition to remaining unsold refurbished houses.
- 2.2 The loan was then varied by Board on 5 August 2020 to grant an interest free period and an extension to the repayment date.
- 2.3 A monitoring report dated 15 June 2022 confirmed that repayments were £3.5M behind anticipated cash flow. The report states that repayment of the loan will depend on how quickly the remaining properties can be sold, and that 19 properties were yet to be reserved.

# 3. Matter for Consideration

- 3.1 A request has recently been received from ECTC for the Combined Authority to release part of the charge. This should facilitate a transfer of part of ECTC's development site that accommodates a derelict former social club.
- 3.2 The proposed transfer of the former social club site to Cambridgeshire Community Services NHS Trust (CCS) would enable construction of a multi storey car park to commence that will serve the Princess of Wales hospital redevelopment as shown on the proposed masterplan at Appendix B.
- 3.3 Under the arrangement CCS will simultaneously transfer land to ECTC that is considered to be capable of future residential development subject to obtaining planning consent.
- 3.4 ECTC have asked for the charge to be released as soon as possible as they have committed to implement the transfer on or before 11<sup>th</sup> July 2022. The land needs to be transferred free from encumbrances – hence the requirement to release the charge.

## 4. Options

- A. Members could refuse consent to release part of the charge. This would delay the construction of a new hospital, but maintain existing loan security.
- B. Members could grant unconditional consent to release part of the charge. This could adversely affect loan security.
- C. Members could grant conditional consent to release part of the charge that applies to Parcel A on the plan at Appendix 3. A replacement charge could be applied to land shown as Parcel B on the plan at Appendix 3 that will transfer to ECTC under the arrangement with CCS. Parcels A and B are equivalent in area and the Parcel B land is considered to be suitable for future residential development subject to obtaining planning consent, so officers consider that the value of the Combined Authority's security would not be adversely affected. Contractual documentation would also be amended to ensure there is no increased contractual risk to loan security.

## Significant Implications

## 5. Financial Implications

- 5.1 ECTC are required to repay the loan by 31 March 2023 and no direct intervention can be taken by the Combined Authority unless default occurs on 31 March 2023.
- 5.2 Loan repayments are required to finance AHP grant funding commitments applied to other schemes.

## 6. Legal Implications

- 6.1 If the Housing and Communities Committee decides to implement option B or C, then ECTC could be requested to pay all costs and expenses incurred by the Combined Authority to implement the arrangement.

## 7. Public Health implications

- 7.1 Redevelopment of a community hospital cannot commence unless the existing arrangement is modified.

## 8. Environmental and Climate Change Implications

- 8.1 The report recommendations have neutral implications for the environment and climate change.

## 9. Appendices

Appendix A – Plan showing extent of site affected by existing charge.

Appendix B – Masterplan of proposed hospital redevelopment.

Appendix C – Plan showing land transfers.

## 10. Background Papers

[Combined Authority Board Report 28 November 2018 \(Item 6.1\)](#)

[Combined Authority Board Report 5 August 2020](#)