

**REPORT OF**    **Head of Communities and Place**

**To:**            **Full Council**

**Subject:**     **Brunswick Wharf Land Release Fund**

**Date:**         **5<sup>th</sup> September 2022**

**Reference:**

**PURPOSE OF REPORT:**

To inform members of the details of conditionality that Department for Levelling Up, Housing and Communities (DLUHC) require in relation to the spend of the Land Release Fund award to Torridge District Council for Quay wall works at Brunswick Wharf and to agree the basis on which the funding should be released to Red Earth.

**1. INTRODUCTION**

In September 2021 it was reported to Full Council that an award of £797,000 had been made to TDC to assist the development of Brunswick Wharf with the cost of repairing the Quay Wall, as enabling work for the future development of the site for housing purposes. Members will recall that the purpose of the fund is to enable land to be released for the purposes of housing.

Full Council resolved that a sum of £797,000 be added to the Council's Capital Programme for Quay Wall works at Brunswick Wharf in accordance with the Land Release Fund (LRF) funding criteria and an agreed specification of work with Red Earth.

**2. REPORT**

This matter was last reported to Full Council in September 2021, a copy of the Report is attached at Appendix 1.

Since the last report to Full Council further discussions have been entered into with DHLUC who have stated that they will be looking at terms of conditionality for the grant funding as the purpose behind the fund is to ensure that land is released to deliver housing.

**Grant Criteria**

The grant award was made to TDC on the following conditions:-

1. The land to which the bid relates is fully owned by the Local Authority;
2. The project must be undertaking capital works on council-owned land only;
3. Funding must enable the release of the land for housing by end March 2023 or earlier, and must address market failure;

4. The works for which funding is sought are deliverable and within a timeframe that will enable the land to be released in time;
5. The project must not exceed an intervention level of £15,000 per housing unit of central government investment in the scheme.

### **Grant reporting**

TDC will need to report progress on the Brunswick Wharf Scheme on a quarterly basis until Q4 2023/24. This will include progress against target milestones like land released, units completed etc.

### Conditionality

Previous discussions with OPE indicated that the terms of the grant had been met by the conditional contract that we had with Red Earth, which released the site for housing in accordance with the planning permission granted. This, in effect, meant that it is unlikely that DLUHC would seek to reclaim the grant funding if the delivery of housing is delayed beyond the reporting timetable agreed with them. TDC's further discussions with DLHUC centred around the fact that TDC have no control over the timing of the development, or the time the housing delivery would be brought forward.

On this basis DLUHC have confirmed that they would recommend the Council seeks assurance from Red Earth that the land will not be used for purposes other than those described within the consented scheme.

They have recommended that, to protect the Council in the event that less than 53 units of housing are delivered on the site, Red Earth agree that a charge is placed on the land. This charge would seek to ensure that in the event of an alternative non residential use being delivered Red Earth, or the property owner at that time, would be liable should DLUHC seek to reclaim the grant funding.

Further conditions may be forthcoming, and, at the time of writing the report, written advice from the OPE Team to this effect is still awaited, together with written confirmation of the actual conditions that they will seek.

### Reputation

While the above mitigation would seem to secure the site for housing delivery at some point in the future the Council has no control over delivery timescales or indeed who will deliver the units of accommodation.

It is a possibility that Red Earth might seek to use the grant funding to meet its contractual obligation and secure a commencement on site (thus making the planning consent extant) and then stall delivery or even sell the site at a value far in excess of the price that they paid for it. In that event the land charge would at least secure the use of the land for the purposes that the council intended to sell it and protect the council in the event that alternative uses were sought in the future. This might help to negate any negative public sentiment that the LRF funding was primarily used to add value to the site for the benefit of Red Earth alone.

This reputational issue is a real concern for the OPE team and one that they are keen to manage through the proposed conditionality on use of the funding.

Red Earth assert that it is their ongoing intention to develop the site to completion, in line with the existing planning consent, and that they have no intention to sell the site once the Quay wall work is finished.

### Red Earth

Red Earth are frustrated by the late imposition of conditionality on the use of the LRF Funding and are saying that this is delaying their proposed start on site. This is not the case because the grant funding is incidental to the development of the site and was not a consideration when the contract of sale was agreed, as the grant funding was not anticipated.

Attention is drawn to the contents of the September 21 attached at Appendix 1 where the intentions for use of the funding were explicit. These recent conversations have been about how the council and OPE protect their position. Red Earth have become frustrated by what they consider to be the late imposition of additional grant conditions but have currently agreed to an indemnification agreement.

It should also be noted that in September 2021 it was anticipated that the use of the funding would assist Red Earth to bridge a viability gap and also to provide the Council with a Quay wall and Riverside walk that was of greater quality that would be likely if relying on Red Earth's contractual obligations. We are now informed that inflationary pressure is such that the works will cost more than expected and the developer will use the funding to provide a more rudimentary scheme that meets their obligation but offer little in terms of enhancement beyond that.

## **5. RECOMMENDATIONS**

It is recommended that

Before entering into a grant agreement with Red Earth for the use of the £797,000 LRF grant the conditionality required by DLUHC and the One Public Estate team is put in place and the council's position in relation to grant claw back is protected prior to drawing down the grant.

### **SUPPORTING INFORMATION**

Consultations:	Date of Consultation – August 22
	Officers Consulted – Chief Executive, Head of Legal and Monitoring Officer, S151 Officer, Major Projects Manager
Contact Officer:	Head of Communities and Place