

## Agenda Item

**REPORT OF** Planning and Economy Manager

**To:** Full Council Meeting

**Subject:** Avon Lane site

**Date:** 1<sup>st</sup> October 2018

**Reference:**

### **PURPOSE OF REPORT:**

To receive the Petition in accordance with the Council's Petition Scheme under the Constitution

## **1. INTRODUCTION**

### **The Petition**

On the 18<sup>th</sup> June 2018 Torridge District Council received a Petition in respect of Avon Lane, Westward Ho!. The Petition has been signed by 4000 people which has asked TDC the following in respect of the site:-

- a) Requiring TDC to transfer the land to Northam Town Council;
- b) Requiring TDC not to build on any part of it.

## **2. REPORT**

### **BACKGROUND**

On the 22<sup>nd</sup> January 2018 the Community and Resources Committee Resolved:-

*“That the options set out in the report be noted and a planning application for the preferred development option on the site be progressed”*

On the 5<sup>th</sup> March 2018 (after call-in of the above decision by The Internal Scrutiny Committee) C & R reaffirmed the decision to progress with the planning application. Therefore a planning application has been submitted in accordance with this resolution

The Council are therefore currently proceeding with the resolution passed by our Community and Resources Committee in accordance with the Constitution,.

The Council's Petition Scheme was updated and amended by Full Council in August 2018. However the Petition was presented in June 2018 when the previous Constitution was in place, and due to this the Petition is running under the previous Petition Scheme (Appendix 1)

As members will be aware Torridge District Council are obliged to follow the Constitution and under the old Petition Scheme if a petition contains signatures of 5% or more of the



population it will be debated by the full council. Therefore a full a council meeting has been called for this purpose.

In accordance with the Council's Constitution during the course of the meeting, the Petition organiser will be given five minutes to present the petition and thereafter the petition will be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the petition at the meeting.

Under the Council's Constitution the options available to members are as follows:-

- 1) They may decide to take the action the petition requests;
- 2) Not to take the action requested for reasons put forward in the debate;
- 3) To resolve to commission further investigation into the matter, for example by a relevant committee.

### **3. IMPLICATIONS**

#### Legal Implications

If members were minded to proceed with option 1 at the meeting this would be unlawful for two reasons. Firstly it would depart from the Council's own Constitution and secondly no consideration has been given under S123 of The Local Government Act 1972.

As members are aware under the Council's Constitution it is The Community and Resources Committee who "*shall take decisions relating to:-*

*The control and management of resources including land, finance and staff to further the Council's objectives*".

As the Petition relates to the Council's land it should be referred to C & R in the first instance.

Further, under S123 of The Local Government Act 1972 this sets out the prime obligation on local authorities in the disposal of land assets. Under this legislation "*a council shall not dispose of land, otherwise than by way for a short tenancy. For a consideration less than the best that can be reasonably obtained*".

Therefore if members were considering a transfer under Option 1 then the matter would have to be referred to the Community and Resources Committee with an officer report advising of the protocol and implications of taking such a course of action. According to the Council's Constitution this is applicable to all transactions that are in relation to the control, and management of the Council's land.

#### Financial Implications

These would be fully detailed in a further report, depending on the course of action members are minded to take

#### Human Resources Implications

None at present

#### Sustainability Implications

#### Equality/Diversity



Risk Management

N/A

Leader Member Views

#### 4. **CONCLUSIONS**

We conclude that it would not be lawful for members to resolve today to transfer the land to Northam Town Council or to resolve not to build on the land without the matter being firstly referred to C & R Committee.

The options available to members under the petition scheme are :-

1. Not to take the action requested in the Petition or the Notice of Motion;
2. Commission further investigation into the matter by referring the matter to the Community and Resources Committee

#### 5. **RECOMMENDATIONS**

To consider the Petition in accordance with the Council's Petition Scheme

#### **SUPPORTING INFORMATION**

Consultations: Head of Paid Service, Strategic Manager (Resources), Solicitor,  
Contact  
Officer: Planning and Economy Manager  
Background  
Papers:

