

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE SPECIAL MEETING OF THE EXECUTIVE – 24 APRIL 2012

SUBMITTED TO THE EXTRAORDINARY COUNCIL MEETING – 8 MAY 2012

(To be read in conjunction with the Agenda for the Meeting)

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| * Cllr Robert Knowles (Chairman) | * Cllr Stephen O’Grady |
| * Cllr Mike Band (Vice-Chairman) | * Cllr Julia Potts |
| * Cllr Carole King | * Cllr Stefan Reynolds |
| * Cllr Bryn Morgan | * Cllr Adam Taylor-Smith |
| Cllr David Munro | * Cllr Keith Webster |
- * Present

Cllrs Brian Adams, Maurice Byham, Tony Gordon-Smith, Peter Isherwood and Christopher Storey were also in attendance

191. APOLOGY FOR ABSENCE (Agenda Item 1)

An apology for absence was received from Cllr David Munro.

192. DISCLOSURE OF INTERESTS (Agenda Item 2)

Cllrs Stephen O’Grady and Julia Potts declared personal interests in all items on the agenda as members of Farnham Town Council.

PART I - RECOMMENDATIONS TO THE COUNCIL

193. BRIGHTWELLS – RECTIFICATION OF DEED OF COVENANT (Agenda Item 3; Appendix A)

193.1 The Executive considered the report at Appendix A on this matter, previously circulated to all Members of the Council, relating to the Deed of Covenant necessary to secure the open space land within the Brightwells Development and retain its open space character. Attention was drawn to the letter from Crest Nicholson, at Annexe 2 of the report, setting out their commitment to the provision of open space and support for the Council in respect of the Covenants necessary to protect it. It was also clarified that the amount of open space secured by the Deed was larger than the existing gardens, with an increase of area of 28.4%.

193.2 The Executive accordingly

RECOMMENDS that

58. the Borough Solicitor, in consultation with the Chief Executive and East Street Portfolio Holder, be authorised to negotiate with Crest Nicholson in order to make the necessary amendments to the Development Agreement and Deed of Covenant relating to Brightwell Gardens and the former Bowling Green as outlined in the report, and enter into a Deed of Variation to the Development Agreement to that effect.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

194. APPROPRIATION OF LAND AT BRIGHTWELLS/EAST STREET AND RIVERSIDE (Agenda Item 4; Appendix B)

[This item contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 3 of the revised Part 1 of Schedule 12A to the Local Government Act 1972, namely;-

Information relating to the financial or business affairs of any particular person (including the authority holding that information).]

194.1 The Executive considered the report at Appendix B, previously circulated to all Members of the Council, setting out the objections to the appropriation and disposal of open space land within the Brightwells and Riverside Development Sites and seeking to determine whether to approve the appropriation for planning purposes and disposal by way of lease.

194.2 Counsel's advice had confirmed the legality of the advertisement and notification process and the Portfolio Holder for East Street was content that the correct procedure had been followed. The Executive was informed that the notification period had also been extended to the end of January 2012 to take account of the Christmas period and in response to members of the public who had requested additional time to finalise and submit their objections. Every objection had been responded to and addressed in the annexes to the report.

194.3 A concern was raised about the future use and ownership of Borelli Walk after the construction period and the Portfolio Holder for East Street said that he would be very happy to have a discussion with Farnham Town Council about possibly taking over the ownership and maintenance of that land.

194.4 The Executive

RECOMMENDS that

59. pursuant to Section 122 of the Local Government Act 1972, the land shown on the Plans at Annexes 2, 3 and 6 at the East Street Development Site and Riverside Site be appropriated for planning purposes and the Chief Executive be authorised to execute a memorandum confirming this appropriation; and

60. **pursuant to Section 123 of the Local Government Act 1972, the intention to lease the land shown on the plans at Annexes 4 and 5 be reaffirmed, and that the detailed terms and conditions of the proposed lease to be granted to Crest Nicholson Sainsbury, including full specification of the terms of the covenants and restrictions that will protect and maintain the open space of Brightwell Gardens for public use and enjoyment, be presented for consideration by the Executive at the appropriate time, once the development agreement pre-conditions have been satisfied.**

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

195. BRIGHTWELLS/EAST STREET DEVELOPMENT, FARNHAM – COMPULSORY PURCHASE (Agenda Item 5; Appendix C)

[This item contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 3 of the revised Part 1 of Schedule 12A to the Local Government Act 1972, namely;-

Information relating to the financial or business affairs of any particular person (including the authority holding that information).]

- 195.1 The Executive considered the report at Appendix C, previously circulated to all Members of the Council, to authorise actions necessary to implement the Council's earlier decision to make a Compulsory Purchase Order to facilitate the carrying out of a scheme of development, re-development and improvement at East Street/Brightwells, Farnham.
- 195.2 The Portfolio Holder for East Street explained that following the Waverley Borough Council elections in 2011, it was now appropriate for the new Executive and Council to give a further approval to the use of Compulsory Purchase Order powers to progress the East Street scheme. The Executive was informed that the decision could have been taken much earlier but that it was important for there to be an improvement in the viability position, which had now materialised. Members noted that officers had continued their efforts to agree terms for the acquisition of the sites but that the owners of the two principal sites to be acquired had so far been unwilling to sell by private treaty. Accordingly it was necessary to proceed with compulsory purchase.
- 195.3 The Borough Solicitor advised the Executive of the possible grounds for objection but also reported that there was very limited statutory guidance on these grounds. The timetable for progressing the CPO was set out in the report and the Portfolio Holder for East Street stated that it was his objective to reach the point of a start on construction on the site within a year. With regard to traffic assessments, the Executive was reassured that the scheme would create an opportunity to make money available to look at the traffic problems within the town and give consideration to the inclusion of possible pedestrian only areas.

195.4 The Executive accordingly

RECOMMENDS to the COUNCIL that

- 61. it confirms that it is satisfied that it is necessary to acquire the sites by compulsory purchase as part of the required redevelopment site, in order to carry out the Brightwells Development as proposed and achieve the social economic and environmental benefits outlined in the report;**
- 62. it reaffirms its previous decision for the Council to make a CPO under Section 226 (1) (a) and (3) of the Town and Country Planning Act 1990 for the acquisition of land shown on the plan (attached as Annexe 1) in order to facilitate the carrying out of a scheme of development, redevelopment and improvement at Brightwells/East Street, Farnham ('the Brightwells Development');**
- 63. it resolves to exercise its powers under Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the creation of new rights required for the purpose of carrying out the Brightwells Development;**
- 64. it resolves to exercise its powers under Sections 236, 237, 271 and 272 of the Town and Country Planning Act 1990 as appropriate in order to extinguish the specific rights in connection with the CPO;**
- 65. it resolves to request the Secretary of State to exercise his powers under Sections 251 and (if necessary) 254(1)(b) of the TCPA in accordance with regulation 15 of the Town and Country Planning General Regulations 1992, to authorise the requisite extinguishment of public rights of way over the lands at Brightwells to be acquired or appropriated for the purposes of the Brightwells Development, as described in paragraph 16 of the report;**
- 66. the Chief Executive be authorised to take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order including, but not limited to, finalising the terms of the Statement of Reasons, CPO Order and Schedule of Interests; service of notices and dealing with all other relevant documentation; dealing with valuations; presenting the Council's case at public inquiry; negotiating and entering into agreements or undertakings with landowners; acquisition of third party interests by private treaty and payment of compensation; references to the Lands Chamber of the Upper Tribunal or Court for determination; dealing with any other relevant claims or orders; and**

- 67. the Chief Executive, in consultation with the Portfolio Holder, be authorised to incur the Council's share of the necessary expenditure in obtaining the sites by compulsory purchase and undertaking the CPO procedure to be financed from the 2012/13 Capital Programme pending the receipt of the capital premium.**

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

Part II – Matters Reported in Detail for the Information of the Council

Part III – Brief Summaries of Other Matters Dealt With

There were no matters falling within these categories.

The meeting commenced at 7.00 p.m. and concluded at 7.37 p.m.

Chairman