

# **APPENDIX O**

## **WAVERLEY BOROUGH COUNCIL**

**EXECUTIVE – 20TH MAY 2008**

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**Title:**

**I RODBOROUGH HILL COTTAGES, PORTSMOUTH ROAD, MILFORD  
SURRENDER OF EASEMENT AND RECEIPT OF RIGHTS OVER ADJOINING  
LAND**

[Ward Affected: Witley and Hambledon]

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**Summary and purpose:**

Authority is sought to relinquish the reserved land shown hatched on the plan at Annexe 1 and take an easement from Surrey County Council to park on its adjacent land for the purposes of emptying and maintaining the septic tank shown cross-hatched.

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**Environmental implications:**

There are no environmental implications.

**Social / community implications:**

There are no social/community implications.

**E-Government implications:**

There are no e-government implications.

**Resource and legal implications:**

The applicants will meet the Council's legal and surveyor's fees.

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**Background**

1. 1 Rodborough Hill Cottages is one of four houses situated off the A3 on Rodborough Hill as shown outlined on the plan at Annexe 1. It is served by a septic tank at the rear of its garden, shown cross-hatched, that also serves the other three houses. Waverley has responsibilities under the Right to Buy and to its tenants to empty and maintain the septic tank but does not have a specific deed from Surrey County Council, the owners of the adjacent land, to cross its land or park on it for the purpose of undertaking this work.
2. As part of the original Right to Buy, a small area of land to the rear of 1 Rodborough Hill Cottages, shown hatched, was reserved so that Waverley's contractors could park on it to empty and maintain the tank. In practice, this is

not used and the contractors park on the adjacent land. The valuation for the Right to Buy for this property is in line with that for 4 Rodborough Hill Cottages, for which vehicular access rights were given.

3. Vehicular access to 1 Rodborough Hill Cottages is difficult except over the adjacent land that Waverley does not own. A previous owner of the property therefore paid Surrey for an easement to the reserved land on which he parked. The present owner would like to construct a garage on this land and has requested that Waverley release the covenant on it.
4. Before Waverley could consider this, it will be necessary to obtain from Surrey a deed permitting Waverley to enter and park on its adjacent land in order to ensure that it is possible to empty and maintain the septic tank. Surrey has indicated that it has no objection to this provided that:
  - a. the vehicles park solely on the existing tracts for this purpose only;
  - b. Waverley ensures that all necessary arrangements are in place while the land is so used to prevent any accident or injury to any person or, as far as reasonably possible, any animal;
  - c. Waverley indemnifies Surrey against all third party claims arising out of its use of Surrey's land.
5. The proposed fee is a peppercorn.
6. Provided that the above agreement is framed in such a way as to be capable of being registered on Surrey's title, there does not seem to be any reason not to accommodate the applicant's request. The applicant will be paying Waverley's surveyor's and legal fees.

### **Recommendation**

It is recommended that:

1. Waverley obtain a deed from Surrey County Council to enter onto and park on Surrey's land adjacent to 1 Rodborough Hill Cottages; and
2. Waverley releases its right to park on the reserved land shown hatched on the plan annexed on terms and conditions to be negotiated by the Head of Legal and Estates Services.

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### **Background Papers: (DoE)**

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

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