

APPENDIX A

WAVERLEY BOROUGH COUNCIL

EXECUTIVE 7 DECEMBER 2010

TITLE:

APPROPRIATION OF LANDS FOR GODALMING LEISURE CENTRE AND KING GEORGE'S FIELD

**[Portfolio Holder: Cllrs Mike Band and Roger Steel]
[Wards Affected: Godalming]**

Summary and purpose:

To ask the Executive to recommend to Council that it appropriates (or transfers) (1) land from open space and recreational use to planning development and leisure uses for the purpose of constructing a new leisure centre; (2) land from open space purposes to open space and recreational purposes for the purpose of dedicating the land as King George's Field.

How this report relates to the Council's Corporate Priorities:

The provision of a new leisure centre and dedication of land as King George Fields will improve and support opportunities for all to take part in sport, recreation and culture.

Equality and Diversity Implications:

There are no implications although the report on the new leisure centre will cover relevant implications.

Climate Change Implications:

There will be a separate report about proposals for the new leisure centre (including energy savings, etc)

Resource/Value for Money Implications:

There are staffing implications covered by existing budgets.

Legal Implications:

Appropriation of lands is a legal requirement and procedure under section 122 of the Local Government Act 1972 which must be observed and before the use of land can be changed from one purpose to another.

Background

1. On 5 October 2010 the Executive recommended to Council the selection of a preferred contractor for the design and build of the new Godalming leisure Centre and the release of £100,000 to the preferred contractor to submit a planning application subject to the Council obtaining legal advice on site related issues to the satisfaction of the Leader and Portfolio Holder for Leisure.
2. Advice of Leading Counsel has been obtained in relation to the legal effect and significance of the Declaration made by the Godalming Borough Council on 1 December 1938 ('the Declaration') under which it was intended that the local community in Godalming should continue to benefit from the provision of a King George's Field. The Council presently holds the Field for open space and recreational purposes. In order, therefore, to proceed with its proposals, the Council must first appropriate to planning, development and leisure purposes that part of the Field, which is needed for the development of the new leisure centre.
3. In negotiation, the Council has stated its willingness to 'dedicate' as a King George's Field an existing playing field which lies adjacent to but not within the area of the Godalming Field at Broadwater Park. If it proceeds with its proposed use of part of the Field for the development of the new leisure centre, the legal advice is that the Council should do a second appropriation of the existing playing field, within its freehold ownership, for use as recreational open space and playing fields. This land will be offered as exchange land for the land to be appropriated for use as the new leisure centre.

Appropriation

4. Section 122(1) of the Local Government Act 1972 empowers the Council to appropriate, for any purpose for which it is authorised by any enactment to acquire land by agreement, any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation.
5. In the case of land consisting of or forming part of open space, subsection 122(2A) of the 1972 Act provides that the Council may not appropriate under subsection (1) unless before appropriating the land, (i) it causes notice of its intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated; and (ii) it then considers any objections to the proposed appropriation which may be made to it.
6. The Council intends to exercise its powers of appropriation under section 122 of the Local Government Act 1972 ('the 1972 Act') for the above purposes. Given that it holds the Field as open space, the Council must advertise its intention to do so and consider any objections to its proposed appropriation, in accordance with section 122(2A) of the 1972 Act. For that purpose, Notices

have been placed in the Surrey Advertiser on 5 November and 12 November 2010. The notices together with the accompanying plans were placed on deposit at the Council offices for public inspection.

7. In recognition of the role of the National Playing Fields Association (NPFA) as Trustee of the King George V Foundation the NPFA were invited to respond in writing with any representations on the proposals, on or before Friday 26 November 2010.

Details of Representations Received will be circulated To Follow.

Considerations

8. Whether the land in question is no longer required for the purpose for which it is held is a matter for the Council to determine, subject to ordinary principles of acting reasonably in the interests of its inhabitants. Those principles require the Council to make its judgment on that question in the light of all material considerations, including in the present case the Declaration.
9. In the case of open space to which the special procedure under section 122(2A) and (2B) of the 1972 Act applies, the Council is under a duty to consider both, (i) the question whether the land is no longer required for open space; and (ii) whether it should be appropriated to the proposed purposes, in the light of the objections and representations received following public consultation.
10. The process for finding an appropriate site for the new leisure centre for Godalming has been exhaustive and detailed. A working group with representation from local Waverley Councillors, Godalming Town Councillors, Chairman and Secretary from Sport Godalming, Broadwater School, swimming clubs and users of the current facility, first met in April 2009. The group was split into three sub groups of specialism one such being the Site Working Group. They considered many possible sites, following planning direction this was reduced to eleven reasonably potential sites. After further scrutiny the Site Group reduced the potential site list to four. At this point an external consultancy was instructed to carry out a SWOT analysis to evaluate each of the four proposed sites. This piece of work narrowed the field to two possible sites for the new leisure centre, the grass tennis court site and the existing site. It was agreed by the Working Group and the Council that we should go out to tender for both site options, allowing another layer of scrutiny to highlight the site that offered the best financial and the most effective community benefits for the users and residents, and the tenders were despatched in January 2010. In February 2010 Waverley Council agreed the two evaluation criteria matrices that would be applied to the returned tenders to identify the most effective building design and the most appropriate site location.
11. Throughout this process negotiations have continued with Fields in Trust and sports clubs affected by this project. Agreement and support has been

forthcoming from all sports clubs in the area and discussions with Field in Trust had come to a conclusion in April 2010, agreeing the land swap proposed by Waverley Borough Council. In parallel to these discussions the Chairman of Friends of Broadwater Park was met and updated regularly of proceedings.

12. In October 2010 after detailed evaluation, following the agreed criteria, the grass tennis court site was selected as the preferred location for the new leisure centre. It caused the least disruption to the thousands of users of the current centre, and had agreement from the local sports clubs. This decision also enabled an increase in the area set aside for informal recreational use of park, as the existing site will be returned to grass, linking with the last remaining informal recreation area, practically doubling this space.
13. The land that has been selected for the new location of the Leisure Centre is also no longer required for open space. Following the findings of our Playing Pitch Strategy adopted by the Council in 2003, produced by PMP Consultancy, consultation demonstrated:

‘that the overall tennis facilities at Broadwater Park are not used regularly and are therefore of little benefit to local residents. The majority of respondents would prefer the courts (grass) to be converted, in most cases, to multi use games areas.’
14. Following this recommendation a multi use games area was introduced in 2009. This is well used and occupies 25% of the proposed area for appropriation and as part of the proposed building of the new leisure centre will be relocated elsewhere on Broadwater Park. The three remaining grass tennis courts occupy 75% of the land and have proven to be uneconomic and not represent value for money for either Waverley Borough Council or the adjacent tennis club to maintain. This area, 75% of the land, remains redundant and has been since April 2009 and is therefore not available as open space for the local area.
15. As part of the land appropriation we are offering a significantly larger area of land, 1.621 ha to be included under the King George V covenant in exchange for the area the Council now requires to build the new leisure centre, 0.43ha. The areas of land involved are shown on the attached plans (Annexes 1 & 2)

Recommendations

That the Executive

1. consider all the relevant representations and responses received by the Council following the placement of the Notices in the Surrey Advertiser on 5th and 12th November 2010 and that the following further recommendations be subject to such consideration;

2. with regard to the proposed new leisure centre site on the land referred to in this report as “the Field” (shown edged on the Plan at Annexe 1) and is currently held for open space and recreational purposes:

determine whether the Field is still required for its existing open space and recreational purposes and ,if not that it should be appropriated for planning, development and leisure purposes;

3. with regard to the land referred to in this report as the “Exchange Land” (shown edged on the Plan at Annexe 2) which it is proposed to dedicate as a King George’s Field:

determine whether the Exchange Land is still required solely for open space purposes and, if not, that it should be appropriated from its existing open space purposes to open space and recreational purposes and dedicated as a playing field to be known as King George’s Field.

Background Papers

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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