

**MAIDSTONE BOROUGH COUNCIL**

**RECORD OF DECISION OF THE CABINET MEMBER FOR CORPORATE SERVICES**

Decision Made: 19 November 2010

**Sale of Land adjacent to Hayle Place Stud Farm, Postley Road, Tovil**

**Issue for Decision**

To consider an offer made by the owner of Hayle Place Stud Farm, for the freehold land owned by the Council which abuts Postley Road.

**Decision Made**

1. That the earlier decision of December 2007 be amended, so the Council may dispose of the land at Postley Road to the adjacent land-owner and;
2. That the offer from the adjacent land owner is agreed (outlined in the draft Heads of Terms attached as **Exempt Appendix I**), for the purchase of the land owned by Maidstone Borough Council at Postley Road and which is shown hatched red on the attached plan.
3. That the Director of Change, Planning and the Environment, in consultation with the Cabinet Member for Corporate Services be given delegated authority to conclude the terms of the agreement for sale between the Council and the adjacent land owner.
4. That the Head of Legal Services be given delegated authority to enter a contract of sale, based upon the terms agreed by the Director of Change, Planning and the Environment.

**Reasons for Decision**

An outline planning application was submitted by the adjacent landowner in 2002 and registered in 2006 which included Council owned land.

In September 2003 the Cabinet resolved to advertise a Notice to dispose of 1.54 acres of Open Space at Postley Road.

The required Notice under Section 123 of the Local Government Act 1972 was published and 288 letters of objection were received.

Thereafter, in February 2004, Cabinet considered the objections raised and a decision was made that in the event of planning permission being granted for development of Hayle Place Stud Farm for residential purposes, the Open Space land owned by the Council at Postley Road be declared surplus and offered for sale in conjunction with the Stud Farm land, the Council receiving one-third of the net proceeds of any sale and that 29 acres of land be transferred to the Council for use as a Country Park/Nature Reserve and a further 1.54 acres of land within any development would be allocated to replace the Open Space at Postley Road.

In December 2007 the Cabinet Member for Corporate Services made a decision regarding the arrangements for marketing and disposal of the Council owned land at Postley Road.

Outline planning consent was granted 22<sup>nd</sup> December 2008 for residential development which incorporated, within the S106 agreement, provision of a country park/nature reserve and a requirement of a payment of £500k towards future maintenance. It was envisaged at the time that the country park/nature reserve would be managed by a tripartite arrangement between the Borough Council, Tovil Parish Council and the Loose Valley Conservation Society

In late 2009 the Corporate Property Manager was instructed to approach the adjacent land owner and enquire whether there would be interest in acquiring the council's land upon the terms set out in the Cabinet decision of 2004, without finding a willing purchaser for both sites.

Following negotiations, an offer has been made to the Council, details of which are included within **Exempt Appendix I**.

In order to assess the financial worth of the offer, Cluttons LLP were instructed to provide a valuation appraisal incorporating a number of variables to include density of housing. (**Exempt Appendix 1**).

Based upon the capital values assessed by Cluttons, it is clear that the offer is in excess of these and I am therefore of the opinion that the offer constitutes the best consideration reasonably obtainable for the freehold interest in the land to be sold.

The previous Decision in December 2007 authorised the Council to agree and promote a joint marketing strategy for the sites. The Council has now received an offer for its land that is considered best consideration reasonably obtainable and therefore it is no longer necessary to continue any marketing process.

Included within the Cabinet Decision, and reinforced by the Cabinet Member's Decision of 2007 is a requirement that the Council secures 29 acres of land adjacent to the proposed development for a country park/nature reserve to be managed either by the Council or a nominee, and that land equivalent in size to that part of the land which is open space and is to be sold with the separate verge land, be transferred to the Council to replace the existing Open Space. The section 106 agreement associated with the outline consent which was granted in 2007 requires

payment of a Management Fee in the sum of £500,000 (which is the anticipated expenditure during the first 10 years of the Park/Reserve) to be paid to the Council to ensure proper development and maintenance of the Country Park/Nature Reserve in accordance with the Management Plan attached to the 106 agreement.

The terms for the agreement of sale of the Council's land will include the requirement to transfer the land for the country park/nature reserve and provide the £500k commuted sum at a specific time when development has commenced. This effectively secures the land as part of the sale and a mechanism will be agreed to protect the commuted sum, again linked to the sale of the land. This secures transfer of the country park/nature reserve into public ownership; so long as development of the site for residential purposes commences, and further reinforces the provisions in the s106 agreement dated 22 December 2008

The proposed terms include measures to enable the transfer of the Country Park/Nature Reserve, further open space and Management Fee, upon commencement of development of the site.

### **Alternative Action and why not Recommended**

The Cabinet Member could consider further marketing of the site, on the basis of the Cabinet Decision of 2004. However in the current market is not anticipated that any other bids will come forward in the short term.

The offer could be refused in the hope of a future higher bid, however there is no guarantee this would result in the Council receiving a higher capital sum.

The offer could be refused but this would mean that the Council would not receive a substantial capital sum to support the needs of the capital investment programme.

### **Alternatives considered and why rejected**

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The offer could be refused in the hope of a future higher bid, however there is no guarantee this would result in the Council receiving a higher capital sum.

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### **Background Papers**

None

Should you be concerned about this decision and wish to call it in, please submit a call in form signed by any two Non-Executive Members to the Head of Change and Scrutiny by: **26 November 2010**

