



**REPORTS FOR DECISION BY THE
CABINET MEMBER FOR CORPORATE SERVICES**

Date Issued: 11 November 2010

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Agenda Item 1

MAIDSTONE BOROUGH COUNCIL

CABINET MEMBER FOR CORPORATE SERVICES

REPORT OF THE ASSISTANT DIRECTOR OF ENVIRONMENT AND REGULATORY SERVICES

Report prepared by:

Christopher Finch

Corporate Property Manager

Date Issued: 11 November 2010

SALE OF LAND ADJACENT TO HAYLE PLACE STUD FARM, POSTLEY ROAD, TOVIL

1. Issue for Decision
- 1.1 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.

Recommendation of the Assistant Director of Environment and Regulatory Services

- 1.1.1 That Cabinet Member agrees to amend the earlier decision of December 2007, so the Council may dispose of the land at Postley Road to the adjacent land-owner and;
- 1.1.2 That the Cabinet Member agrees to the offer from the adjacent land owner (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. (**Appendix A**).
- 1.1.3 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.
- 1.1.4 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.

1.2 Reasons for Recommendation

- 1.2.1 An outline planning application was submitted by the adjacent landowner in 2002 and registered in 2006 which included Council owned land.
- 1.2.2 In September 2003 the Cabinet resolved to advertise a Notice to dispose of 1.54 acres of Open Space at Postley Road.
- 1.2.3 The required Notice under Section 123 of the Local Government Act 1972 was published and 288 letters of objection were received.
- 1.2.4 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. A copy of the decision is attached as **Appendix B.**
- 1.2.5 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. A copy of the decision is attached as **Appendix C.**
- 1.2.6 Outline planning consent was eventually granted 22nd December 2008 for residential development which incorporated within the s106 agreement provision of a country park and a requirement a payment of £500k towards future maintenance. It was envisaged at the time that the country park would be managed by a tripartite arrangement between the Borough Council, Tovil Parish Council and the Loose Valley Conservation Society
- 1.2.7 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.
- 1.2.8 Following negotiations, an offer has been made to the Council, details of which are included within **Exempt Appendix I.**

- 1.2.9 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. A copy of the valuation is attached at **Exempt Appendix II**.
- 1.2.10 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.
- 1.2.11 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.
- 1.2.12 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) to be paid to the Council to ensure proper development and maintenance of the Country Park in accordance with the Management Plan attached to the 106 agreement.
- 1.2.13 The terms for the agreement of sale of the Council's land will include the requirement to transfer the land for the country park 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 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
- 1.2.14 The proposed terms include measures to enable the transfer of the Country Park, further open space and Management Fee, upon commencement of development of the site.

1.3 Alternative Action and why not Recommended

- 1.3.1 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.

1.3.2 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.

1.3.3 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.

1.4 Impact on Corporate Objectives

1.4.1 The proposed sale supports the Council Priorities of:

- A place that is clean and green
- A place to live and enjoy

through provision of 29 acres of parkland.

1.5 Risk Management

1.5.1 The agreed terms seek to protect the provision of the country park and the management fee

1.5.2 It is possible that following the sale, the adjacent land owner sells on the land to another developer and the value to the Council is not one third of the total value, as envisaged in the Cabinet decision in 2004. However the Cabinet Member has to decide whether to accept the offer at this time, given the current financial situation and having regard to the independent advice on the value of the land.

1.7 Other Implications

1.7.1

1.	Financial	X
1.	Staffing	
2.	Legal	X
3.	Equality Impact Needs Assessment	
4.	Environmental/Sustainable Development	
5.	Community Safety	
6.	Human Rights Act	
7.	Procurement	
8.	Asset Management	X

1.5.2.1 Financial -The sale of land shall result in a capital receipt to the Council as detailed in the Exempt Appendix

1.5.2.2 Asset Management-sale of the land will release to the Council 29 acres for use as a public Country Park, which will have land management cost implications

1.6 Relevant Documents

1.6.1 Exempt Appendices

1.6.2 Appendices

- 1.6.2.1 (A) Plan of Council owned land
- 1.6.2.2 (B) Cabinet Decision February 2004
- 1.6.2.3 (C) Cabinet Member for Corporate Services Decision December 2007

1.6.3 Background Documents

1.6.3.1 None

IS THIS A KEY DECISION REPORT?

Yes

X

No

If yes, when did it first appear in the Forward Plan?

November 2010.

This is a Key Decision because:

It will realise income to the Council in excess of £250,000

Wards/Parishes affected:

South Ward
Tovil Parish

How to Comment

Should you have any comments on the issue that is being considered please contact either the relevant Officer or the Member of the Executive who will be taking the decision.

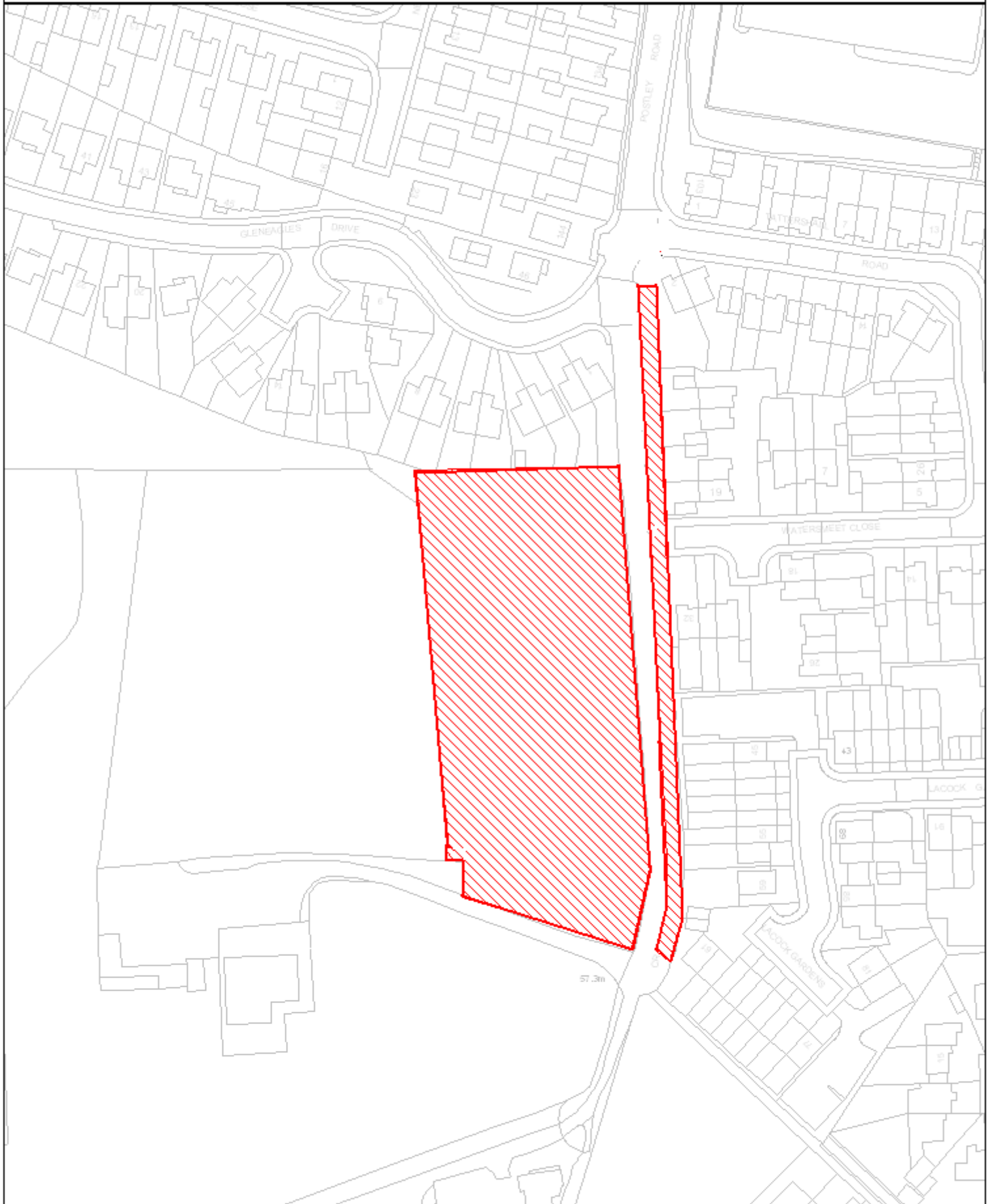
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THE MAIDSTONE BOROUGH COUNCIL



APPENDIX A



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Scale :

MAIDSTONE BOROUGH COUNCIL

RECORD OF DECISION OF THE CABINET

Decision Made: 11 February 2004

LAND AT POSTLEY ROAD

Issue for Decision

To consider the representations made in respect of the possible disposal of open space land at Postley Road and determine whether or not the disposal should proceed.

Decision Made

1. That in the event of planning permission being granted for residential development of the Hayle Place Stud Farm site, and appropriate arrangements being made to ensure that the 29 acre nature reserve is brought into public ownership, the open space land at Postley Road be declared surplus to requirements and offered for sale along with the Stud Farm site on the basis that the net proceeds of sale in respect of the combined site.
2. That the sale of the open space land be conditional upon a parcel of land of equal area and adjoining Postley Road being conveyed to the Council or the Parish Council within a specified time for use as open space so that the total area of open space at Postley Road remains as existing.
the Ccl will receive 1/3 of

Reasons for decision

At the meeting on 10 September 2003 the Cabinet agreed that 1.54 acres of land at Postley Road be advertised as a disposal of open space and any objections which may be received be considered.

A total of 288 objections to the proposal have been received and these have all been read by the Cabinet.

There is clearly significant public concern regarding the possible loss of the open space land and the proposed residential development of the Stud Farm site which is the subject of a current planning application.

The open space land is required in order to provide an access into the Stud Farm site and the proposed disposal terms are outlined below.

In reaching a decision on this matter the following considerations have been taken into account:-

- (i) As part of the planning application, the owner of the Stud Farm site, Mr. Paul Stone, has offered to convey to the Council or the Parish Council approximately 29 acres of adjoining land for use as a nature reserve.
- (ii) Mr. Stone has agreed that the Stud Farm site will be sold subject to a condition that an area of land adjacent to Postley Road and equal in area to the open space land will be transferred to either the Borough Council or the Parish Council. The result of this would be that the total area of open space on the western side of the Postley Road extension will remain as existing.
- (iii) A number of the objections relating to the possible disposal of open space concern the impact of the residential development which, subject to the grant of planning permission, the disposal will enable. This is clearly a matter for the Planning Committee to consider. The issue under consideration is the impact of any loss of open space balanced against the benefit of the disposal proceeds and any other community benefits arising from the proposed disposal. The Cabinet decision to sell will not have any impact whatsoever on planning policy.
- (iv) It would not be appropriate to become involved in planning issues which are a non executive function, and the responsibility of the Planning Committee.
- (v) So far as the disposal proceeds are concerned, the discussions which had been held with Mr. Stone and his agent had resulted in Mr. Stone agreeing that the Borough Council should receive one third of the net proceeds of sale in respect of the combined site. This arrangement reflects the importance of the Council's land so far as access to the development site is concerned, rather than the respective areas of the land ownership.
- (vi) If planning permission for residential development is granted, the Stud Farm site will have a very considerable value and on the basis of current prices it is believed that the Council could expect to receive in excess of £2 million from the arrangement outlined above without any net loss of open space land and with the added advantage of 29 acres of important Loose Valley amenity land being brought into public ownership as a nature reserve.
- (vii) A previous recommendation by the then Arts & Recreation Committee in 1991 that 1.4 acres of open space land at Postley Road be declared non-operational and sold was rejected by the Lands Group at a meeting on 28 January 1991.

Alternatives considered and why rejected

An option is to decide not to proceed with the proposed disposal. This has not been agreed because it would result in the loss of the opportunity to provide a 29 acre nature reserve and the potential £2 million capital receipt.

Background Papers

Note of meeting 12.12.03. 288 letters of objection.

These can be found at the Council Offices.

Should you be concerned about this decision and wish to call it in, please submit a call in form signed by two Members of the Strategic Leadership Overview and Scrutiny Committee to the Assistant Director of Scrutiny and Change Management by: **23 February 2004**

MAIDSTONE BOROUGH COUNCIL

RECORD OF DECISION OF THE CABINET MEMBER FOR

CORPORATE SERVICES

Decision Made: 21 December 2007

SALE OF LAND AT POSTLEY ROAD/HAYLE PLACE

Issue for Decision

To consider the method of disposal for the Council owned land at Hayle Place, as shown on the Ordnance Survey extract attached to the Report of the Director of Change and Support Services, and arrangements for its marketing and eventual sale, to achieve a significant benefit for the community.

Decision Made

1. That, in accordance with the previous Cabinet decision, the Council owned land be marketed and sold together with the adjoining development land at Hayle Place owned by Mr Paul Stone.
2. That the net sale proceeds for the combined site be divided one third to the Council and two thirds to Mr Stone and that approximately 12 hectares of land be brought into Public ownership/ownership by a Trust for use as a Country Park/Nature Reserve as envisaged by the Planning Committee Decision in March 2007.
3. That the sale be by way of a two stage tender process and that the marketing is handled by Messrs Sibley Pares as joint agents for the Council and Mr Stone.
4. That the Director of Change and Support services be given delegated authority to agree the terms and conditions of the appointment of the agents, and of the land sale, in consultation with the Cabinet Member.
5. That the land adjoining Postley Road, shown on the plan attached to the Report of the Director of Change and Support Services, which is equal in area to the land being sold by the Council, is transferred to the Borough Council or Tovil Parish Council for use as Public Open Space.
6. That the Head of Legal Services be authorised to enter into the necessary documentation to give effect to these decisions.

Reasons for Decision

On 11th February 2004, the Cabinet agreed that, subject to the grant of planning permission and appropriate arrangements for a 29 acre nature reserve to be brought into public ownership, the Council owned land at Postley Road be offered for sale along with the Hayle Place Stud Farm site on the understanding that the Council will receive one third of the net proceeds of sale in respect of the combined site.

The planning committee has resolved to give the Principal Planning Officer authority to grant planning permission for residential development on the stud
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farm site with access via the Council owned land in Postley Rd, provided that a Section 106 agreement is first entered into which will provide for a 12 hectare Country Park on adjoining land to be brought into use and transferred to a Trust with a view to it being designated as a Local Nature Reserve in due course. It may be that the best way of achieving Local Nature Reserve status would be for the Council to own the land. This issue will be dealt with in a report back to the Planning Committee detailing the terms of the Section 106 Agreement for approval.

It is considered that a sale by way of a two stage tender will achieve the best sale price given the size of the development site and the likely number of prospective developers to whom it is likely to appeal. The principle of a two-stage tender allows the Council to assess initial submissions and decide upon suitable second stage candidates. Criteria for selection would include the Developer's previous history in providing this type of residential development.

Alternative actions and why rejected

I could decide that the sale should be by way of private treaty or auction. Neither of these methods of sale is recommended in this particular case for the reasons outlined above. A sale by Private Treaty could potentially leave the proposal as a 'Hostage to Fortune' which could result in an 11th hour revision of any offer at the point of exchange of contracts, a disposal by auction, although a quick route would permit any interested party to purchase the site without previous assessment by the Council.


I could decide not to appoint Sibley Pares to act for the Council. There is benefit to both Mr Stone and the Council in having one agent act for both parties on a joint disposal basis. There is no conflict of interest as both parties have a common interest and the division of the disposal proceeds has been agreed. Separate marketing of the Council's land would complicate the disposal arrangements and possibly delay the completion of the sales.

I could decide not to proceed with the sale of the Council's land. This is not recommended because it would be contrary to the previous Cabinet decision, would result in the loss of a significant capital receipt and potential community benefit and would prevent the implementation of the planning permission that the Principal Planning Officer has been given delegated authority to grant.

Background Papers

None

Background documents can be viewed at the Council Offices

Signed 
Councillor Peter Hooper
Cabinet Member for Corporate Services

Date: *21 December 2007*

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 Scrutiny Manager by: **3 January 2008**

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