

CABINET

12 DECEMBER 2007

LAND AT PONDSIDE LANE, BISHOP'S WALTHAM - COMPULSORY PURCHASE ORDER

REPORT OF HEAD OF LEGAL SERVICES

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RECENT REFERENCES:

CAB 1500 - Compulsory Purchase Order – Pondside, Bishop's Waltham – 17 July 2007

EXECUTIVE SUMMARY:

This report gives details of the exercise by the Chief Executive of emergency powers to withdraw notices to treat which had been served in respect of land at Pondside Lane, Bishop's Waltham. The decision to withdraw the notices was taken in the light of compensation claims which were received following service of the notices.

RECOMMENDATION:

That the Chief Executive's use of emergency powers to withdraw the notices to treat served in respect of land at Pondside Lane, Bishop's Waltham be noted.

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DETAIL:

1 Introduction

- 1.1 At its meeting of 17 July 2007 (CAB1500 refers), Cabinet authorised the acquisition of land at Pondsides Lane, Bishop's Waltham, pursuant to the Winchester City Council (Pondsides, Bishop's Waltham) Compulsory Purchase Order 2002. The acquisition was being made on behalf of the Parish Council, to allow them to provide a play area and other recreation facilities.
- 1.2 Originally, over 2 hectares of land had been sought in the Order. However, following a public inquiry in 2003, the Secretary of State decided to reduce the land included in the confirmed Order to 0.58 hectares, in the southern part of the site. This allowed the owner to retain the remainder of the land to the north. Although the land area had been reduced, the Parish Council nevertheless considered it was beneficial to proceed with the acquisition.
- 1.3 Notices to treat were accordingly served, and resulted in the submission of compensation claims by the landowners and other interested parties. The size of these claims was such that it was not considered possible to pursue the acquisition, and the Chief Executive therefore agreed to exercise emergency powers, as set out in the Scheme of Delegation to Officers, to withdraw the notices. This report sets out the background to this decision, in accordance with the requirements of the Scheme of Delegation.

2 Exercise of Compulsory Purchase Powers

- 2.1 Following the resolution of Cabinet on 17 July 2007, notices to treat were served on the landowners of the land and other interested parties. In accordance with the relevant legislation, the landowners and interested parties submitted claims for compensation, based on the losses they would incur as a result of the compulsory acquisition.
- 2.2 Provision had been made in the Open Spaces Fund to meet the expected claims. However, the claims which were made were considerably in excess of this provision. The claims were accompanied by evidence which suggested that, if the acquisition were to be pursued, significant sums would have to be paid in compensation, in excess of the provision which had been made. The size of the claims resulted from the loss of access rights to other land (i.e. to the land which had originally been included in the Order, but which was excluded by the Secretary of State when the Order was confirmed), and higher claimed potential development value (particularly in the light of recent increased pressure for land to be found for housing).
- 2.3 Compensation claims must either be agreed by the acquiring authority, or referred to the Lands Tribunal for determination. Normally, where the costs are disputed, the Lands Tribunal would award costs to the claimant.

- 2.4 Unless the notices were withdrawn, the City Council would have been obliged to pay to the claimants the amounts of compensation which they had claimed (or as reduced following a reference to the Lands Tribunal). Although the compensation would have been payable by the Parish Council, it was anticipated that the Open Spaces Fund would be used for this purpose. If the compensation payable to the claimants had been in the order of that claimed by them, these sums could not have been met from the Fund, and the Parish Council would have to have funded the shortfall themselves.

3 Consultation Prior to Decision

- 3.1 Advice was sought from Counsel on the merit and basis of the claims submitted. This advice was taken into account as part of the decision-making process.
- 3.2 The Head of Legal Services attended a meeting of the Parish Council, when the situation was discussed. The Parish Council concurred with the proposal to withdraw the notices.
- 3.3 The Leader and Chairman of Principal Scrutiny Committee were also consulted prior to the decision being taken.

4 Decision by Chief Executive

- 4.1 Having considered the advice of Counsel, and the views of the Parish Council and the Leader and Chairman of Principal Scrutiny Committee, the Chief Executive decided that the financial risks of proceeding with the acquisition of the land under the compulsory purchase order were so significant that it was necessary to withdraw the notices to treat and thereby remove the obligation on the part of the Council to pay compensation to the landowners and the interested parties.

5 Consequences of Withdrawal of Notices and Future Action

- 5.1 The withdrawal of the notices means that the acquisition process does not proceed, and Council is not obliged to pay any compensation to the landowners, other than the costs they may have incurred in dealing with the notice to treat and submitting a claim.
- 5.2 It is not possible to continue to pursue the acquisition of the land under the 2002 Order, although it is possible to make a new order in the future if a case for acquisition can be justified.
- 5.3 Discussions are underway between the Parish Council and the landowner's agent as to the future management of the land, and other possible ways of securing open space on the land.

OTHER CONSIDERATIONS:

6 CORPORATE STRATEGY (RELEVANCE TO):

- 6.1 This report relates primarily to the promotion of health and well-being objective in the Corporate Strategy.

7 RESOURCE IMPLICATIONS:

- 7.1 Withdrawal of the notices means that neither the City Council nor the Parish Council are liable to pay the compensation claims which had been submitted in respect of the compulsory acquisition.
- 7.2 Those who were served with the notices are entitled to their costs of dealing with the notices and submitting claims. These are relatively small (likely to be less than £5,000 in total) and will be met through the Open Spaces Fund, given the fact that the acquisition was being pursued for open space purposes.

BACKGROUND DOCUMENTS:

None