

CABINET

9 DECEMBER 2009

NEW ALRESFORD COMPULSORY PURCHASE ORDER

REPORT OF HEAD OF LEGAL SERVICES

Contact Officer: HOWARD BONE Tel No: 01962 848552

RECENT REFERENCES:

NONE

EXECUTIVE SUMMARY:

The Winchester District Local Plan Review contains proposals for the provision of recreation land at Arlebury Park, New Alresford, to remedy a deficit in such provision in the area.

The land is in private ownership, and negotiations have failed to secure acceptable terms for the acquisition of the land. Planning permission for the use has been obtained, and the Parish Council has formally requested the City Council to exercise compulsory purchase powers on its behalf, to acquire the land from the current landowner.

This report sets out the background to the matter and gives legal and financial advice to assist Members in considering the Parish Council's request.

RECOMMENDATIONS:

That Members consider the information set out in the report and the matters set out in Exempt Appendix 2, and give instructions on the next steps to be taken.

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DETAIL:

1 Introduction

- 1.1 New Alresford Town Council has identified a shortfall of provision of suitable pitches for rugby in the area. The Open Space Strategy also recognises this shortfall, and states that provision should be made in the Alresford area. The Town Council believe that a site at Arlebury Park (adjacent to the existing recreation ground) is the most suitable site for such provision, and this view is supported by the Local Plan Review and the Open Space Strategy.
- 1.2 The land is privately owned, and it is understood that a developer also has an interest in the land to develop it for housing. Negotiations have been taking place, but the Town Council have so far been unsuccessful in reaching agreement to acquire the land on suitable terms.
- 1.3 Consequently, the Town Council has been in discussions with the City Council to promote a compulsory purchase order of the land, to allow the Town Council to acquire the land and provide rugby facilities on the site.

2 Local Plan Policy and Planning Position

- 2.1 The adopted Winchester District Local Plan Review 2006 designates the land under policy RT.5 (improvements in recreation provision). This policy is one of the policies saved pursuant to a Direction issued by the Secretary of State, and therefore remains part of the Development Plan until replaced or deleted when the relevant Development Plan Document is adopted by the Council.
- 2.2 Members will be aware that the 2006 Review was adopted following a lengthy process including a deposit document (which designated the land for recreation provision) and a public inquiry. Following the public inquiry, the Inspector recommended increasing the designation of the land by 50%, to the extent now shown in the 2006 review, despite an objection to the designation itself. This objection was promoting housing on the site, with an alternative site for the RT.5 land to the north. The Inspector took the view that the engineering works which would be required to the objector's proposed alternative site were so substantial that they would render the alternative site more costly to implement than the designated site. Furthermore, he considered that floodlighting the alternative site would produce more intrusive light pollution than the designated site. In view of his conclusion that the residual part of the field (i.e. that part which had not been included in the Council's designation in the deposit document) would be unlikely of being capable of any viable use, and his concerns about the objector's proposed

alternative site, he recommended extending the designation to cover the whole of the field (an increase of approximately 50%). The site as included in the 2006 Review (taking account of the recommendations of the Inspector) is shown in Appendix 1, and amounts to approximately 2.55 ha (6.30 acres).

- 2.3 Planning permission for the change of use of this enlarged site to recreation has been granted to the Town Council, subject to conditions.

3 Open Space Strategy

- 3.1 The current Open Space Strategy identifies a deficiency in sports pitch provision in the New Alresford parish area of -1.5ha. As outlined later in this report, there is current physical provision of a rugby pitch at Bighton and accordingly there is no *quantitative* deficiency in provision in the combined parishes of New Alresford, Bighton and Bishop's Sutton, although taking into account the relative populations, the focus of the need of the combined parishes remains in New Alresford and the Bighton facility is therefore poorly located for such need.

- 3.2 The Strategy notes that even though there is no quantitative deficiency when the Town and the other two Parishes are aggregated, there remains a deficiency in terms of standard and quality in the current provision. The Bighton facility is inadequate in terms of changing facilities, and access is poor. In addition, there is no continued security of tenure for the facility.

- 3.3 The Open Space Officer considers that the provision of a rugby facility in Alresford is now the priority for the use of the Sport element of the Open Space Fund for New Alresford, given the deficiency identified in the Open Space Strategy and the inadequacies of the existing facilities which are having to be used.

4 Compulsory Purchase Order Provisions

- 4.1 Under Section 125 of the Local Government Act 1972, parish councils can request the district council to make a compulsory purchase order on its behalf, if the parish council is unable to acquire land for one of its functions [i.e. including the provision of recreational facilities] by agreement. If it agrees to do so, the district council can recover the costs which it incurs from the parish council. There is no duty on the district council to make an order in these circumstances, and if it refuses to do so the parish council can petition the Secretary of State to make the order on its behalf.

- 4.2 The parish council (New Alresford Town Council) has made formally asked the City Council to make a compulsory purchase order to acquire this land for recreation purposes, and the City Council therefore needs to determine whether to agree to make the order on behalf of the Town Council.

- 4.3 The process of making a compulsory purchase order involves an order being made, served on the owner, and advertised. If objections are made and not withdrawn, the order can only be effective if confirmed by the Secretary of State, who will consider the objections, and usually hold a public inquiry to consider the objections. The order may either be confirmed (with or without modifications), in which case the acquisition could then proceed, with

compensation be payable to the owner, based on the value of the land and other losses suffered as a result. Alternatively, the order may be not confirmed, in which case the proposal would either have to be reconsidered, or dropped.

- 4.4 If objections are received, evidence will need to be given by the Council at a public inquiry in response to the objections. The extent and type of evidence needed will depend on the nature of the objections, but is likely to involve strategic planning and open space matters.

5 Funding

- 5.1 Although there is some funding in the Open Space Fund for the Town Council to use, additional funds are likely to be required for the purchase of the land, the costs of the compulsory purchase order and laying out the site. The Town Council have identified possible sources for these additional funds, and would raise money using loans and/or their precept powers if necessary. Details of the financial implications are set out in the Exempt Appendix 2.

- 5.2 Under Section 125 of the Local Government Act 1972, a district council acting on behalf of a parish council in this way may recover its expenses from the parish council. There are therefore no direct financial resource implications for the City Council in the proposal.

- 5.3 The costs which the Town Council would have to bear would include the expenses of making and confirming the order. These would include officer time in preparation of the order, advertising it, and (if objections were to be made) dealing with the public inquiry to consider objections. If the order is confirmed, the Town Council would also have to meet the compensation payable to the landowner for the compulsory acquisition. The Town Council is aware of these costs, and has agreed to meet them if the City Council proceeds with the Order.

6 Justification for Making the Order

- 6.1 The Town Council are extremely keen to pursue the acquisition of this land for rugby use, considering it to be of paramount importance for the Alresford community. It considers that there is a high need for rugby pitch provision in the Alresford area.

- 6.2 Up to date changing facilities have been provided by the Town Council on its own adjacent site and the location of the land and its accessibility to the population which generates the greater part of the need for the facilities means that this land is the appropriate site for such provision.

- 6.3 At present, Alresford Rugby Football Club play their home matches at Bighton, on a field owned by a local farmer. The facilities comprise a single pitch, floodlit training area and limited car parking. There is no security of tenure and very limited facilities. Given the inadequate changing facilities at Bighton, players are forced to change at Arlebury Park (the Town Council's facilities) and travel over three miles for the match, reversing the process to change after the match.

- 6.4 Taking this into account and the location and standard of the Bighton pitch, it is not considered that this facility is an appropriate venue to meet the deficiency identified in the Open Space Strategy.
- 6.5 Prior to the pitches at Perins School being relaid in the 1990's, the Club had been able to use the facilities, but these arrangements were ended as the level of use (i.e. school use during the week and rugby use during the weekend) was causing damage to the pitches.
- 6.6 The Town Council and the Club have examined other possible sites in the area as an alternative rugby facility, including Perins School, but all have been ruled out, leaving the land at Arlebury Park (adjacent to the Town Council's existing facilities) as being the only viable site.
- 6.7 The Rugby Club consider that a facility in Alresford will enhance the opportunity for young players to train and play rugby, and for the Club to foster even stronger relations with Perins School (a recognised Community Sports College). At present, young people are playing rugby at the School but cannot continue to participate in the sport once they have left due to the lack of facilities.

7 Legal Considerations

- 7.1 The City Council must be satisfied that the Town Council has been unable to acquire the land on reasonable terms by agreement. Negotiations have been ongoing with the developer and the landowner for some time, but the Town Council has been unable to progress these negotiations to a satisfactory conclusion.
- 7.2 In deciding whether or not to make the order, the City Council must have regard to the extent of land held in the neighbourhood by the owner, and to the convenience of other property belonging to the same owner, and shall, so far as practicable, avoid taking an undue or inconvenient quantity of land from any one owner.
- 7.3 Further details of the legal considerations applicable to this matter are set out in the Exempt Appendix 2.

8 Planning Permission

- 8.1 Planning permission for the change of use of the land to recreational use has been granted. Accordingly, if the land were to be acquired, it could be put to the use for which it was acquired without further consents being needed.

9 Conclusions

- 9.1 The acquisition of this land would deal with an identified shortfall of sports pitches in the Parish, and resolve practical difficulties which have a negative effect on playing rugby in the area. Given the failure to agree terms, it appears that compulsory purchase powers will be required to secure the land for public use.

- 9.2 The Council has a discretionary power to assist the Town Council in this situation by making a compulsory purchase order and pursuing it to confirmation. Agreeing to exercise this power would involve officer time in preparing and making the order, as well as officer time in preparing evidence for and appearing at a public inquiry if objections are received.

OTHER CONSIDERATIONS:

10 SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

- 10.1 This report relates directly to the following objective in the Strategy:-
- Help people to make positive changes to their lifestyles for better physical and emotional health.

11 RESOURCE IMPLICATIONS:

- 11.1 As outlined in the report, the City Council's expenses will be met in full by the Town Council. The Town Council would wish to utilise the Open Space Fund to contribute towards the costs of the Order and acquisition of the land.
- 11.2 The Open Space Fund for New Alresford contains (as at 1 November 2009) –
- Sport – £115,500
- Play - £ 61,000
- 11.3 Further details of the resource implications are given in the Exempt Appendix 2.

12 RISK MANAGEMENT ISSUES

- 12.1 Given the statutory framework applicable in this situation, the Town Council will be responsible for reimbursing any expenses incurring by the City Council, and therefore the City Council will need to satisfy itself that the Town Council has access to adequate funds to meet this liability. It would be advisable for the City Council to require the Town Council to indemnify it against all costs arising from the scheme.
- 12.2 Other relevant information is contained in the Exempt Appendix 2.

BACKGROUND DOCUMENTS:

Request from New Alresford Town Council 24 February 2009.

APPENDICES:

Appendix 1 – Map of land

EXEMPT Appendix 2 – Financial details and Legal advice.