

5. LAND ADJACENT TO NEWBURY, COURTMEAD ROAD, CUCKFIELD; PRESERVATION OF PLANNING PERMISSION

REPORT OF: HEAD OF CORPORATE RESOURCES
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Wards Affected: *Cuckfield*
Key Decision: No
Report to: Cabinet 8th May 2017

Purpose of Report

1. This report recommends the implementation of the existing Planning Permission for a 5 bedroomed house on the Council owned building plot at Courtmead Road, Cuckfield to a sufficient extent to ensure that Planning Permission is preserved.
 2. **Cabinet are recommended to:**
 - (i) **Approve the actions outlined within the report to implement the existing Planning Permission on the site at Courtmead Road.**
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Background

3. The Council as landowner was granted outline planning permission for a 5 bedroomed house on this site in December 2013. Reserved matters approval was granted in October 2015. It is a condition of the planning permission that development is commenced prior to 9th October 2017.
4. In October 2016, Cabinet approved a budget line for a capital project to build a house for resale at the Land. Cabinet's decision was approved by Full Council on 2 November 2016.
5. We are not yet at a stage where a final recommendation can be made on the proposal to build a house for sale at this location or to derive value from the site by some other course of action. Whilst a marketing exercise has been carried out, we have not yet tendered satisfactorily for a builder of any house. Until we are in full possession of the costs of any build and the possible sale price of the completed property, we are not able to recommend any particular course of action to the Council, or the likely capital receipt for so doing.
6. However, given that the planning permission will expire in the autumn, it would be sensible to take steps to protect that permission by implementing it and completing the appropriate works necessary and thereby safeguarding the value of the land.
7. While this decision could be made under delegated powers, given the interest in the matter, it is being brought to Cabinet for consideration and decision.

8. The outline planning permission is the subject of an ongoing judicial review challenge which is due to be heard in the High Court in June 2017. It is expected that judgment should be given in relation to that judicial review prior to the expiry of the planning permission, but there is no guarantee that a judgment will be received by then or allow enough time for the works to be organised and scheduled. Officers intend, in the first instance, to wait for the outcome of the judicial review proceedings before taking any steps to implement the permission. However, if judgment is not received before the end of September 2017, steps will be taken to implement the permission nonetheless.

The proposed works

9. In order to lawfully commence development it is necessary to satisfy the legal requirements in section 56(4) of the Town and Country Planning Act 1990 as amended. This says that “*development is taken to be begun on the earliest date on which a material operation is carried out*”. A material operation is defined in the Act and can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change in the use of the land.
10. It is therefore proposed that a small proportion of the earmarked budget is used to finance some works to protect the permission. These works are expected to cost less than £20k in total.
11. We also need to comply with the pre-commencement conditions which were listed within the original Outline permission granted in December 2013. These are listed below and annotated to show where actions are proposed.

	Condition	Action proposed
1	Approval of reserved matters	Already approved October 2015
2	Approval of external materials	External materials (bricks/tiles etc) to be submitted for approval.
3	Approval of drainage plan	Foul and surface water drainage plan to be set out and approved by the LPA.
4	Protection of species-rich hedgerow	Fencing to be erected on western boundary prior to excavation work.
5	Updated ecological surveys	Surveys to be updated during May using a current contract
6	Regular mowing regime	Mowing has been regularly undertaken to prevent ecological enrichment.
7	Effective wheelwashing installed.	Wheelwashing equipment to be installed on site for the duration of the works..

12. Officers within the Corporate Estates Team will now start to work through the conditions, liaising with Officers within the Development Management Business Unit as appropriate, prior to starting on site.
13. Upon starting on site by the end of September, the minimum level of material works will be undertaken sufficient to satisfy the Local Planning Authority that development has commenced.

Policy Context

14. Members have expressed a desire to generate a capital receipt from the Council owned land at Courtmead Road that can be reinvested for the benefit of Mid Sussex residents. A conditional contract for sale to a third party bidder fell through in August 2016. Therefore, officers have been exploring options for alternative means to generate a capital receipt from the land. One of those options is for the Council to build a house on the land for sale to a third party. To enable this option to proceed, should it be pursued, Cabinet has approved a budget line for a capital project to build a house for resale at the Land and Full Council has approved Cabinet's decision.
15. Before any final decision is taken on whether to build a house at the Land, a full report will be prepared for Cabinet setting out the legal powers under which the build and sale could be undertaken and setting out the likely capital receipt to be generated. However, further information is needed before such a recommendation can be made and it may be that the result of the further work suggests that an alternative approach is preferable (e.g. sale of the land, conditional on the grant of planning permission; or absolute sale of the land).
16. The preservation of the planning permission on this site will ensure that it remains possible for Cabinet to decide in the future whether or not to build a house for sale on the land should that option be recommended by officers in due course.

Other Options Considered

17. The only other option considered was to let the permission lapse. This option was rejected as it would limit the options available to Cabinet when considering how best to achieve a material capital receipt from the land.

Financial Implications

18. The cost of preserving the permission is expected to be within £20k. This can be met from the budget earmarked by Cabinet for this project.

Risk Management Implications

19. Implementing the planning permission to the minimum level necessary to preserve the permission should carry minimal risk.

Equality and Customer Service Implications

20. None. The site has planning permission already.

Other Material Implications

21. In the event that the planning permission is implemented prior to judgment in the ongoing judicial review proceedings and is subsequently quashed, the Council may be required to return the land to its former condition. The cost of doing so is not likely to be significant.

Background Papers

- None