

CABINET MEMBER DECISION

This form should be used to record
Executive decisions taken by Cabinet
Members

Decision Ref. No:

Responsible Officer: Jo Rust

Subject: Land at Cheshire Drive - Appropriation for Planning Purposes

Decision taken: To appropriate for planning purposes land at Cheshire Drive, shown hatched black on the attached plan, under section 19 of the Housing Act 1985 and section 237 of the Town and Country Planning Act 1990.

Reasons for the decision: This will facilitate the delivery of new affordable housing in accordance with the Council's Corporate Plan priority area of '*Meeting Bournemouth's housing needs*' by minimising the risk of any private law challenge.

Call-in and Urgency: The decision is subject to the Council's call in procedure.

Background: The site was part of a larger parcel of land acquired and held for housing purposes. Cabinet on 15 February 2012 approved a report on the delivery of 105 new Council dwellings, which identified this site as having potential for infill housing development. A planning application was subsequently submitted for the construction of five two-bedroom houses and this was granted on 2nd December 2014. As a precaution against any private law claims asserting rights over this land, which could prevent this affordable housing development from proceeding, Legal Services have advised that the land should be appropriated for planning purposes under section 237 of the Town and Country Planning Act 1990. The effect of this appropriation is detailed below.

Options - and reasons for rejection:
None

Consultations undertaken: None

Finance/Resource Implications: The Senior Lawyer (Property) advises below on the likelihood of the existence of private rights and the Council's liability to pay compensation if the appropriation interferes with such private rights. This advice suggests that there is a very small risk of having to pay compensation if private law rights have been affected by the appropriation. In the unlikely event that compensation is payable, the Head of Property

Services advises that the compensation level would be minor as there are no vehicular rights involved, and it is unlikely that the loss of pedestrian access rights will materially affect the value of the adjoining properties.

Name: [REDACTED]

Date: 7/7/15

Signature: (of Chief Finance Officer)

Legal implications: There are no express private rights over this land apparent from the deeds. Whilst it is highly unlikely that any rights have arisen by implication, if such rights do exist then the development might be stopped if a beneficiary successfully applies to the Courts for an injunction. To protect against this risk, it is proposed that the site is appropriated for planning purposes.

The Council has the necessary statutory powers to appropriate housing land under section 19 of the Housing Act 1985. Section 237 of the Town and Country Planning Act 1990 provides that an appropriation for planning purposes permits development and subsequent use of land in accordance with planning permission, even if private rights are affected. Where the beneficiary of such right or restriction suffers loss as a result of the subsequent development, compensation can be claimed under Section 10, Compulsory Purchase Act 1965.

The appropriation must be in the interests of the proper planning of the area. Since planning consent was granted in December 2014 for the development, the use of these statutory powers to further the Corporate Priority of 'Improving our Environment' by increasing the stock of affordable housing is considered to be in the interests of proper planning.

Name: ANYA GORRICK

Date: 7/7/15

Signature: (of Monitoring Officer)

Risk assessment:

A risk assessment shows this to be low risk.

Name: JO RUST

Date: 7/7/15

Signature: (of Officer completing assessment)

Impact Assessments: An Environmental Impact assessment was carried out as part of the Business Case for the development of the five houses and was neutral or positive in all areas. The decision to appropriate land has no impact on this earlier assessment. An Equalities Needs Impact Assessment Screening Record has been completed and indicates that there is no adverse impact on equalities.

Information for/not for publication: For publication

**Background papers:
Full Business Case – 13th March 2014**

<http://biz/sites/ProjectHub/Lists/Project%20Highlight%20Reports/DispForm.aspx?ID=881>

Any conflict of interest declared by a Cabinet Member who is consulted by the Member taking the decision	Name of Cabinet Member	Nature of interest	Details of any dispensation granted by the Monitoring Officer
No			

* Delete as appropriate

Decision taken by:

Councillor Robert Lawton

Cabinet Portfolio: Housing

Signed:

Date of decision:

9.7.15

Date of publication of record of decision: (to be inserted by Democratic Services)

10/07/15

Date decision effective – that is 5 working days after the date of publication of the record of decision unless the decision is called-in for consideration by the relevant Overview and Scrutiny Panel:

17/07/15

-insert date-

