

## ***Decision by Portfolio Holder***



***Report reference: HCS-006-2020/21***

***Date of report: 03 September 2020***

**Epping Forest  
District Council**

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**Portfolio:** Housing and Community Services – Councillor H Whitbread

**Author:** Rachel Smith (Ext 2710) Democratic Services: J Leither

**Subject:** Land Sale - Parcel of Land Adjacent to 7 The Glebe, Magdalen Laver

**Decision:**

- (1) That the parcel of land adjacent to 7 The Glebe, Magdalen Laver, as shown at Appendix 1, which measures approximately 206 square metres, be sold to one of the owners of 7 The Glebe, Mrs Birch, for £20,000.
- (2) That a covenant be placed on the Title Deeds to:
  - (a) Require the new owner and any successors in Title, to preserve all existing pipes and drains on the land so as not to damage them or obstruct access;
  - (b) Require the new owner and any successors in Title, to maintain access rights for maintaining pipes and drains
  - (c) Restrict the use of the land for garden use, save for the exceptions therein stated at paragraph three.
- (3) In accordance with the Housing Portfolio Holder Decision of 13 November 2018 (HSG-017-2018/19 refers), that an overage agreement be applied to the land, which in the event of a change of use or implementation of any planning permission, a further premium under overage provisions will be paid to the Council. However, to better reflect the intention of the original decision, that the terms of the overage agreement be amended to permit the erection of a conservatory, garage or extension (subject to obtaining any necessary planning permission) without incurrance of a further premium.
- (4) That the new owner be required to pay the Council's reasonable legal costs in connection with the sale.

<b>ADVISORY NOTICE:</b>	
<i>A Portfolio Holder may not take a decision on a matter on which he/she has declared a Pecuniary interest. A Portfolio Holder with a non-pecuniary interest must declare that interest when exercising delegated powers.</i>	
I have read and approve/do not approve (delete as appropriate) the above decision:	
Comments/further action required:	
Signed:	Date:
<i>Non-pecuniary interest declared by Portfolio Holder/ conflict of non-pecuniary interest declared by any other consulted Cabinet Member:</i>	<i>Dispensation granted by Standards Committee: Yes/No or n/a</i>
<b>Office use only:</b> Call-in period begins:	Expiry of Call-in period:

**After completion, one copy of this pro forma should be returned to Democratic Services IMMEDIATELY**

**Reason for decision:**

The Service Director – Property & Housing, has delegated authority to dispose of small plots of housing land which are incapable of separate development but are considered suitable for incorporation into the garden of an adjoining owner, not exceeding 50 square metres (Minute 116 of the former Housing Committee held on the 26<sup>th</sup> January 1998 refers). The parcel of land adjacent to 7 The Glebe however measures more than 50 square metres and thus this decision from the Portfolio Holder for Housing and Property Services is given pursuant to Article 14 s.10 & Part 3 Appendix 4 of the Council's constitution. Alternatively, the decision is made pursuant to s.4.2 Part 3, Appendix 5.

The land is remote and costly for the Council to maintain and has frequently been used to dump rubbish.

The Council's solicitor has advised that the land should not be built upon as there is a public sewer running through the land to a private sewage plant serving this and the neighbouring properties.

**Options considered and rejected:**

The option to retain the land has been discounted. The land is not suitable for development and has previously been a target for the dumping of rubbish.

**Background Report:**

1. In 2014, the owner occupiers of 7 The Glebe applied to purchase a parcel of HRA land approximately 232 square metres, situated adjacent to their property.
2. Upon receiving this application, the land was valued at £30,000 in July 2014. The Portfolio Holder agreed for it to be sold, (Housing Portfolio Holder Decision HSG009-2014/15 refers), however it was later identified that the original site plan included a tarmacked resident's turning area, which enjoyed established rights of way. The turning

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area was removed from the original plan, therefore reducing the plot size to 206 square metres. A plan is provided at Appendix 1 of the report.

3. In the meantime, another resident (No 6 The Glebe) expressed an interest in purchasing the land. In the interest of fairness, both applicants were permitted to submit a sealed bid for the land in question. The Council specified that the land would not be sold for less than £20,000 and would accept the highest bid from either party. The Council received one bid of £20,000 from one of the owners of No 7 The Glebe.
4. The Director of Property & Housing Services has delegated authority to dispose of plots of housing land of up to 50 square metres by virtue of the former Housing Committee held on 26th January 1998. However, due to the size of the plot, approval was outside of the Director's delegated powers and a decision was sought from the Housing Portfolio Holder.
5. On the 13<sup>th</sup> November 2018, the Housing Portfolio Holder agreed that the parcel of land adjacent to 7 The Glebe, measuring approximately 206 square meters, be sold to one of the owners of 7 The Glebe (Mrs Birch) for £20,000 (HSG-017-2018/19 refers). Further, it was agreed that a covenant be placed on the Title Deeds to require the new owner to preserve all existing pipes and drains on the land so as not to damage them or obstruct access, to require the new owner to allow access rights for maintaining pipes and drains and restrict the use of the land for garden use only. Additionally, that an overage agreement be applied to the land which, in the event of a change of use or implementation of any planning permission, a further premium under overage provisions would be paid to the Council.
6. The overage provisions approved by the Housing Portfolio Holder on 13<sup>th</sup> November 2018 specify the occasions that would trigger the overage, namely any development within the meaning of section 55 of the Town and Country Planning Act 1990:

**55      *Meaning of "development" and "new development".***

*(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.*

*(1A) For the purposes of this Act "building operations" includes—*

*(a) demolition of buildings;*

*(b) rebuilding;*

*(c) structural alterations of or additions to buildings; and*

*(d) other operations normally undertaken by a person carrying on business as a builder.*

The overage provisions in their current format therefore can be triggered if the owner or any successors in Title were to erect a new dwelling on the land, but similarly if they erected a conservatory, garage or an extension on the same. It is understood that the intention of the original decision was to enable the Council to command a premium in the event of a change of use or implementation of any planning permission, whereby a separate dwelling was erected, not to prevent the erection of a conservatory, garage or extension.

7. The Property & Housing Portfolio Holder is asked to agree the sale of the land referred to at Appendix 1, to one of the owners of 7 The Glebe (Mrs Birch), subject to an overage agreement, which in the event of a change of use or implementation of any planning permission, a further premium under overage provisions would be paid to the Council, but amended to allow the erection of a conservatory, garage or extension without incurrance of a further premium, provided that the building is not situated on any land coloured yellow on the plan.

### **Resource Implications:**

The sale would generate an income of £20,000 to the Council.

It would be a requirement of the sale, that the Council's valuation fee of £1,200 and reasonable legal costs of £650 be recharged to the purchaser.

### **Legal and Governance Implications:**

*S.123 Local Government Act 1972* allows local authorities to dispose of land in any manner they wish, provided that disposal is for the best consideration available.

Further, s.32 of the Housing Act 1985 allows local authorities to dispose of land held for the purposes of Part II of the Housing Act 1985, with the consent of the secretary of state.

The secretary of state has provided a number of general consents in 'The General Housing Consents 2013'.

The Council, intending to undertake the transaction at market value, is able to rely upon the following consent to undertake the sale without further specific recourse to the secretary of state:

"A3.1.1 A local authority may, subject to paragraph 3.1.2, dispose of land for a consideration equal to its market value"

### **Safer, Cleaner and Greener Implications:**

Once the land is fenced and included within the garden of 7 The Glebe, it will no longer be used as an area to dump rubbish.

### **Consultation Undertaken:**

The local Ward member was consulted and had no objections to the sale. The owner of 6 The Glebe was involved in the bidding process, however they did not make a bid.

### **Background Papers:**

None

### **Impact Assessments:**

### **Risk Management:**

No material risks identified.

### **Key Decision Reference (N):**

### **Equality Analysis:**

The Equality Act 2010 requires that the Public Sector Equality Duty is actively applied in decision-making. This means that the equality information provided to accompany this report is essential reading for all members involved in the consideration of this report. The equality information is provided as an Appendix to the report.