



REPORT OF:	Head of Property
AUTHOR:	JOHN REED
TELEPHONE:	01737 276571
E-MAIL:	John.Reed@reigate-banstead.gov.uk
TO:	EXECUTIVE
DATE:	25 JANUARY 2018
EXECUTIVE MEMBER:	COUNCILLOR MRS N. BRAMHALL

KEY DECISION REQUIRED:	YES
WARD (S) AFFECTED:	HORLEY

SUBJECT:	CONDITIONAL ACQUISITION OF FREEHOLD LAND IN HORLEY
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RECOMMENDATION:

1. Authorise the Head of Property in consultation with the Head of Finance and Head of Legal together with the Executive Members for Property and Acquisitions and Finance to agree a conditional contract to acquire the Freehold interest of the land, subject to conditions, and valuation referred to in the Executive's Part 2 (Exempt information) report and subsequently to exchange and complete on the acquisition.
2. Authorise the Head of Finance in consultation with the Head of Property and Head of Legal together with the Executive Members for Property and Acquisitions and Finance to fund the acquisition in line with the prevailing Treasury Management Strategy once the conditions have been satisfactorily cleared.
3. Authorise the Head of Property in consultation with the Head of Legal and the Executive Member for Property and Acquisitions to bring forward a further report to appropriate the land for Planning purposes once acquired.
4. Authorise the Head of Property in consultation with the Head of Finance and Head of Legal together with the Executive Members for Property and Acquisitions and Finance to agree to make available an additional loan facility to Horley Business Park Development LLP or another Special Purpose Vehicle to acquire the freehold land which is the subject of this report, and to agree a conditional contract with Horley Business Park Development LLP to acquire the Freehold interest in the land, subject to conditions, referred to in the Executive's Part 2 (Exempt information) report.

EXECUTIVE SUMMARY

This report seeks authority to acquire the freehold interest, subject to conditions, of land in Horley. The land forms part of the proposed business park and new park for residents use. The land has been subject to negotiations with the freehold owner and heads of

terms have now been agreed for a conditional purchase, subject to Executive approval, which is the purpose of this report. Full details of the proposed Heads of Terms can be found in the exempt Part 2 part of this agenda as well as a site plan describing the site.

The land forms part of the three parcels of land that are being promoted by Horley Business Park Development LLP, and its acquisition subject to conditions is an important part of the land assembly to enable the land to be brought forward for a business park and a new public park. The Council formed a joint venture known as Horley Business Park Development LLP to bring forward a business park on land to the south of Horley. Securing the piece of land referred to in this report subject to conditions is a significant step forward in bringing forward the Business Park and new public park for residents' use. Securing the land under contract will mean the Council and its joint venture partner will have secured two of the three parcels of land required to bring forward the proposed business park.

The acquisition of this land is subject to conditions which are set out in the proposed Heads of Terms in the exempt information being considered in Part 2 of this agenda. One of the most significant conditions is that the acquisition is subject to Planning.

Bringing forward the Business Park will contribute to the key Five Year Plan objectives of creating new jobs for our residents' benefit and ensuring that there is a resilient, vibrant economy, as well as contributing to the longer term financial sustainability of the Council. Delivering the Business Park will create significant job opportunities and result in significant economic benefits to Horley, the borough as a whole and the wider Gatwick Diamond area.

The Executive has authority to determine recommendations 1 and 3. Recommendations 2 and 4 are subject to full Council approval.

STATUTORY POWERS

1. Section 2 of the *Local Government Act 2000* gives local authorities the power to do anything in the furtherance of the economic, social or environmental wellbeing of their area. The exercise of that power is specifically linked, in section 4 of the Act, to works required in furtherance of community and corporate plan objectives.
2. This acquisition on the terms agreed is considered to provide financial enhancement to the well-being of the area for the reasons set out in the report.
3. Whilst there is no statutory requirement to achieve best consideration on an acquisition, the Council's adopted Asset Management Plan and its medium term Financial Strategy require that any acquisitions made add to the value of the Council's existing asset portfolio and in turn the Council's income. These aspects are addressed in this report and the report at the exempt Part 2 part of this agenda.

BACKGROUND

4. The Council's 5 Year Plan identifies property investment and development as one of its key corporate objectives to help secure the longer term financial sustainability of the Council. The 5 Year Plan also sets out the Council's key objectives with relation to economic prosperity, which is to create new jobs for our

residents' benefit, and to ensure there is a resilient, vibrant economy. The Business Park is anticipated to create a significant number of jobs and bring economic benefits to Horley, the rest of the Borough, and the wider Gatwick Diamond area.

5. The draft DMP, approved for publication and consultation as the "Regulation 19" submission by the Council in December, includes proposals to allocate land to the west of the Balcombe Road for a new employment development and new public park.

ISSUES

6. The Council along with its Joint Venture Partner has been negotiating with the land owner as part of its strategy for land assembly. This has resulted in the agreement of the Heads of Terms included in the exempt report at part 2 of this agenda.
7. The land, if acquired will mean that two of the three pieces of land needed to bring forward the development will be in the ownership of the Council or will be under contract with the Joint Venture vehicle in which the Council has a 50% interest. This will represent a positive step towards bringing the development forward.
8. The agreed purchase is subject to the usual due diligence to confirm there are no problems with the Legal Title. In addition an environmental report, measured survey and Red Book valuation will be undertaken. The costs associated with this due diligence are set out in the exempt Part 2 section of this agenda.
9. The financial implications for the Council are clearly relevant. The specific financial implications for this proposed acquisition are set out in the part 2 section of this report.

OPTIONS

10. Enter into an agreement for the conditional purchase of the Freehold Interest subject to conditions
11. Subject to the due diligence set out in paragraph 7, this is the recommended option. Being in control of the land is a key stage in bringing forward the development of the Business Park and public park.
12. Find an alternative funder; this is not the recommended option for the reasons set out in the confidential report at Part 2 of this agenda.
13. Do Nothing

For the reasons set out in this report this option is also not the recommended option. Doing nothing means the Joint Venture will have to find a funder to undertake the acquisition, and will mean the proposals to appropriate the land for Planning purposes will not be possible. This will make the delivery of the park on the strategic scale envisaged more difficult.

LEGAL IMPLICATIONS

14. The wellbeing powers required to acquire the freehold interest and Section 123 requirements are set out in the body of this report.
15. The acquisition of land is exempt from the Contract Procedure Rules under paragraph (f) of Appendix A of on page 194 of the Constitution.

FINANCIAL IMPLICATIONS

16. The purchase will be funded from appropriate sources in line with the prevailing Treasury Management Strategy. As the purchase is to be treated as a Transfer of a Going Concern, VAT will not be payable.
17. This acquisition will provide the Council with a substantial land holding to enable it to bring forward the Business Park in Horley in the established Joint Venture vehicle. The terms of the conditional purchase set out in the information in the Part 2 report to be considered in Part 2 of this agenda are considered to be commercially acceptable.
18. The acquisition would contribute to the achievement of the Council's corporate plan objectives.
19. The purchase would also incur incidental costs comprising Stamp Duty, valuation advice and surveys for which an approved budget has been identified in the exempt Part 2 section of this agenda.
20. The land is currently used for grazing under licence to the land owner. This Licence would need to be terminated if the Business Park and Town Park are to come forward. .
21. This investment is a strategic acquisition not without risk. The Councils officers will look to mitigate the risk, some initial proposals are set out in the Part 2 report.

URGENCY AND CONSULTATION

22. Due to the urgency of this matter only the Leader, Deputy Leader and Portfolio Holders for Property and Acquisitions and Finance have been consulted about this acquisition.

POLICY FRAMEWORK

23. The acquisition reflects the aim of the Council's Asset Management Plan to undertake acquisitions, to add to the value of existing asset or to produce a greater financial return than alternative investment options in accordance with the Council's medium-term financial strategy.
24. The site has been proposed for allocation in the draft Development Management Plan which was approved for publication and consultation as the "Regulation 19" submission to Government for Examination in March.

Background papers: None