

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

10 October 2012

Report of the Director of Planning, Transport and Leisure and the Chief Solicitor

Part 1- Public

Executive Non Key Decisions

1 PETERS PIT, WOULDHAM – CONSULTATION BY THE MARINE MANAGEMENT ORGANISATION AND THE SERVICE OF A COMPULSORY PURCHASE ORDER

Summary

This report seeks authority to respond to a formal consultation by the Marine Management Organisation. To also seek Members re-affirmation of the decision of March 2011 to serve a Compulsory Purchase Order to secure the construction of a bridge from A228 to the Peters Pit development site

1.1 Introduction

- 1.1.1 Many Members will recall that the residential development of Peters Pit, with an associated key road bridge connection to A228, has been a proposal in the Council's Development Plans for many years. The relevant planning permissions were approved in 2005 and have been legally implemented.
- 1.1.2 However, it became apparent in 2010 that it was not proving possible for the landowner/developer to reach agreement with two bodies, who own rights to the Medway Valley railway line and the River Medway, to allow the new road bridge to A228 to cross those transport arteries. As a result Cabinet approved the service of a Compulsory Purchase Order (CPO) in respect of the railway and river at its meeting of 30 March 2011 having received an initial report on 13 October 2010.
- 1.1.3 Since that time we have been in communication with all parties in the hope that the authority to serve the CPO would encourage agreement and thus allow the project to proceed. Regrettably, while there has been some progress, these matters have not come to a positive conclusion.
- 1.1.4 In light of this we have been working with the owner/developer of Peters Pit towards the service of the CPO to secure the necessary rights to construct the road bridge while still encouraging a negotiated solution. As part of this work the Council has had to investigate the other procedures required to implement the road bridge in order to be satisfied that there is no impediment to the approved

planning schemes being delivered. This includes various licensing and regulatory procedures governed by other organisations. Deliverability will be a critical test should this matter proceed to a public inquiry.

1.2 Consultation by the Marine Management Organisation

- 1.2.1 One of the other procedures relates to the need of the developer to obtain a Licence from the Marine Management Organisation (MMO) under the Marine and Coastal Access Act 2009. A Licence application to MMO is, in terms of the current proposals, subject to both Environmental Impact Assessment and also consultation with this Council.
- 1.2.2 The planning applications submitted to this Council and Medway Council in 2005 were accompanied by an Environmental Statement under planning legislation. This Statement has been subject to updating in order to be submitted to the MMO to accompany the Licence application. Two areas of updating are of specific note:
- a) a review to update river conditions/flood assessment to reflect a change in Government guidance about flooding between 2005 and the submission of the Licence application (that guidance now itself having been rescinded and replaced) and
 - b) environmental and species data, both flora and fauna
- 1.2.3 The MMO Licence application has been subject to consultation by MMO including with this Council and statutory agencies.
- 1.2.4 The Council has been advised by the Environment Agency (EA), by way of the response to the MMO consultation, that it does not raise objection especially in respect of the factors mentioned in 1.2.2a). We are awaiting information on other responses which might have some bearing on the position to be adopted by the Borough Council and will reflect on those as they are made available to us. For instance we believe that there will be a response by English Nature in respect of the matters referred to in 1.2.2b) but that they will not be available in advance of the finalisation of the drafting of this report.
- 1.2.5 These two matters in particular are areas of specialism where, in the normal run of the consideration of a Planning Environmental Statement, the Council would rely heavily on specialist technical advice from these two statutory bodies.
- 1.2.6 As a result it is likely that we will need to report orally at the meeting on any further information that emerges from the MMO Licence procedures.
- 1.2.7 On the basis of the current position of knowledge I do not consider that there is any reason for this Council to object to the MMO Licence and indeed the grant of such a Licence would be consistent with and supportive of the grants of planning permission in 2005. Nothing that has emerged subsequently has caused any change that would alter that position.

1.2.8 There are other Regulatory consents required such as a River Works Licence, various consents related to species/habitats and Flood Defence Consent which are either in position or expected to be so shortly. We also understand that discussions are well advanced with the two Local Highways Authorities, KCC and Medway Council surrounding the agreements necessary for the long term adoption of the scheme roads and the bridge itself.

1.3 The Compulsory Purchase Order

1.3.1 As mentioned in Section 1.1 Officers have been working towards concluding the processes towards service of Compulsory Purchase Order, whilst at the same time seeking to encourage all parties to reach a negotiated solution. At present, we have a key strategic housing site, which has legally commenced, but is incapable of being completed to the scale envisaged in the Borough Council's Core Strategy or the planning permissions granted.

1.3.2 While the current economic conditions may not be most favourable, the lead time involved for the owner/developer in the tendering and allied processes means that if the CPO process runs its full course a start on bridge construction could not, in any event, reasonably be expected until Spring 2014 at the earliest.

1.3.3 It is imperative that to achieve the implementation of a key part of the Borough Council's Development Plan strategy and in particular securing a continuing delivery of housing, steps continue to be taken to bring forward the supply of some 1000 residential units including 250 affordable homes on Peters Pit. It is therefore necessary to continue with the CPO process unless and until negotiated solutions are forthcoming.

1.4 Legal Implications

1.4.1 As reported on 30 March 2011.

1.5 Financial and Value for Money Considerations

1.5.1 As reported on 13 October 2010.

1.6 Risk Assessment

1.6.1 As reported on 13 October 2010.

1.7 Equality Impact Assessment

1.7.1 See 'Screening for equality impacts' table at end of report

1.8 Policy Considerations

1.8.1 As reported on 13 October 2010.

1.9 Recommendations

1.9.1 **NO OBJECTION BE RAISED** in respect of the consultation from the Marine Management Organisation (subject to no key adverse responses arising from other consultees on matters that would be of direct relevance to the Local Planning Authority)

1.9.2 The decision to serve a Compulsory Purchase Order as authorised in March 2011 **BE RE-AFFIRMED**

Background papers:

contact: Steve Humphrey
Adrian Stanfield
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Nil

Steve Humphrey
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Chief Solicitor

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The decision will not adversely impact any groups
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Yes	Redevelopment of the area and improved transportation links will promote equality of opportunity in an area less well developed. In addition at least 25% of the housing will be affordable housing.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.