

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

16 March 2021

Report of the Director of Central Services and Deputy Chief Executive

Part 1- Public

Executive Non Key Decisions

1 EAST PECKHAM PARISH COUNCIL – REQUEST FOR COMPUSORY PURCHASE ORDER

1.1 Background

1.1.1 On 15th March 2021 East Peckham Parish Council resolved to make a request to the Borough Council, under section s.39(7) of the Small Holdings and Allotments Act 1908 (“Allotments Act”), to make a Compulsory Purchase Order in respect of allotment land at Church Lane, East Peckham.

1.1.2 The land is occupied as allotments by the Parish Council under a lease. The Parish Council are currently negotiating with the landowner to purchase the site. The Parish Council wishes to purchase the land compulsorily in the event that those negotiations are unsuccessful.

1.2 Legal Implications

1.2.1 Under section 39(7) of the Allotments Act, a Parish Council cannot exercise Compulsory Purchase powers itself. Instead, the PC must make a request of the Borough Council to make the order on its behalf.

1.2.2 In the event the Borough Council decline to make the Order, the Parish Council may approach the Secretary of State directly to make the Order on its behalf.

1.2.3 If the Council resolves to make a CPO, there are a number of formal processes to be followed before the land vests in the Parish Council. The Order must be submitted to the Secretary of State for the Environment for approval. The landowner(s) may object to the Order, and if that is the case a CPO Public Inquiry may need to be held. The PC must also continue to negotiate with the landowner for the purchase without compulsion. In the event those negotiations are unsuccessful, the Borough Council can then serve notice or make a General Vesting Declaration, in order to allow the Parish Council to take possession of the land- subject to compensation for the land being agreed or resolved through the Lands Tribunal.

1.3 Financial and Value for Money Considerations

- 1.3.1 Section 39 of the Allotments Act requires a Parish Council to pay all of the costs of the Borough Council in making a CPO on their behalf. In addition, the recommendation in this report is that the Borough Council would only resolve to make an Order after an acceptable Costs Indemnity Agreement was put in place. Overall, therefore, the Order would be cost-neutral to the Borough Council.

1.4 Risk Assessment

- 1.4.1 The making of a CPO on behalf of the Parish Council in these circumstances presents a low risk to the Council, provided that an appropriate costs indemnity agreement is in place.

1.5 Equality Impact Assessment

- 1.5.1 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups.
- 1.5.2 The decisions recommended through this paper have the capability of directly affecting people with a protected characteristic (age), as allotments may more likely be used by older people (although it is acknowledged this is not exclusively the case). The provision of allotments provides opportunity for outdoor exercise and activities which can promote wellbeing which otherwise may not be available to older people. A decision to make the Order could promote (by the continuation of Allotment provision) equality of opportunity for people with a protected characteristic. Conversely, if the Order is not made, it may ultimately result in the loss of allotment land and a consequent reduction in opportunities for people with a protected characteristic.

1.6 Policy Considerations

- 1.6.1 Community
- 1.6.2 Equalities/Diversity
- 1.6.3 Healthy Lifestyles

1.7 Recommendations

- 1.7.1 That Cabinet **RESOLVE** to:
- (i) **MAKE** a Compulsory Purchase Order under s.39 Small Holdings and Allotments Act 1908 on behalf of East Peckham Parish Council in respect of the allotment land at Church Lane, East Peckham;

- (ii) **DELEGATE** to the Director of Central Services and Deputy Chief Executive any further decisions required for the preparation, drafting, completion, making and submission of the Compulsory Purchase Order to the Secretary of State; and
- (iii) In the event that the Order is confirmed by the Secretary of State, **DELEGATE** to the Director of Central Services and Deputy Chief Executive authority to serve such notices or make such General Vesting Declarations as are required to give effect to the Order and vest the title to the land in the Parish Council.

SUBJECT TO the Parish Council entering into a CPO Costs Indemnity Agreement on terms acceptable to the Director of Central Services and Deputy Chief Executive.

Background papers:

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Nil

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Director of Central Services and Deputy Chief Executive