

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

07 September 2022

### Report of the Director of Central Services and Deputy Chief Executive

#### Part 1- Public

#### Executive Non Key Decisions

#### **1 EAST PECKHAM PARISH COUNCIL – COMPULSORY PURCHASE ORDER**

##### **1.1 Background**

1.1.1 Cabinet members may recall that on 16<sup>th</sup> March 2021 Cabinet resolved to:

- 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; and
- 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
- 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.

1.1.2 That decision was 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.

1.1.3 The CPO indemnity agreement was subsequently entered into, and officers entered into discussions with the Parish Council to progress the Order.

1.1.4 On 28<sup>th</sup> June 2022, the Parish Council advised that they had secured alternative land for the provision of allotments and consequently no longer wished to pursue the Compulsory Purchase Order.

1.1.5 Cabinet is therefore asked to consider whether it wishes to continue with the Compulsory Purchase Order to acquire the land as allotments to be administered by the Borough Council, or to discontinue with making the Order.

## **1.2 Legal Implications**

- 1.2.1 Whilst the Borough Council can manage and maintain allotments for use by its residents, the provision of allotments is primarily a Parish Council function in parished areas.
- 1.2.2 East Peckham Parish Council have confirmed that they have secured appropriate alternative provision of allotment land, and indeed have now moved their allotments to this area, so were the Council to continue with the purchase it could result in a surplus or overprovision of allotment land in the area. It would not be permissible for land acquired under an Order to be used or disposed of for any other purpose than for allotments.

## **1.3 Financial and Value for Money Considerations**

- 1.3.1 If the Council were to continue with pursuing the Order the CPO indemnity agreement would fall away and the Council would be liable for all costs of the Order, including legal and land referencing fees and the payment of compensation for the land value. Were the Secretary of State to cause a public inquiry to be held, the Council would also have to cover the costs of this, including venue, legal representation and officer time.
- 1.3.2 Without a land referencing exercise having been carried out it is not possible to provide an estimate of the compensation payable. However, we understand the owner to be pursuing development options on the land, and such matters can be taken into account when determining compensation levels. The legal and other costs of pursuing an Order up to and including inquiry could run in excess of £50,000.

## **1.4 Risk Assessment**

- 1.4.1 The primary risk in this matter is the financial risk to the Council highlighted above. The Parish Council has provided alternative allotments and the land purchased under the CPO would have no alternate land value.

## **1.5 Equality Impact Assessment**

- 1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## **1.6 Policy Considerations**

- 1.6.1 Nil

## **1.7 Recommendations**

- 1.7.1 That Cabinet RESOLVES to discontinue the making of a Compulsory Purchase Order under s.39(7) of the Small Holdings and Allotments Act 1908 in relation to land at Church Lane, East Peckham.

Background papers:

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Nil

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