

|                             |   |
|-----------------------------|---|
| <b>TITLE</b>                | <b>Acquisition of Property (The Lodge) due to the Arborfield Cross Relief Road</b>  |
| <b>FOR CONSIDERATION BY</b> | The Executive on 29 June 2017   |
| <b>WARD</b>                 | Arborfield  |
| <b>DIRECTOR</b>             | Graham Ebers, Director of Finance and Resources   |
| <b>LEAD MEMBER</b>          | David Lee, Executive Member for Strategic Highways and Planning<br>Chris Bowring, Executive Member for Highways and Transport |

## **OUTCOME / BENEFITS TO THE COMMUNITY**

The provision of the Arborfield Cross Relief Road supports the Council's vision of investing in our towns and villages which aims to help sustain and improve the lives of the community.

## **RECOMMENDATION**

The Executive is recommended to agree that the purchase of The Lodge is agreed in principal and Officers be authorised to undertake:

- 1) detailed negotiations with the property owners to establish a draft heads of terms for sale and proceed on acquiring the property;
- 2) the purchase of The Lodge is delegated to the Director of Corporate Services and Director of Customer and Locality Services in consultation with the Executive Members for Highways and Transport and Planning and Regeneration to proceed and make the discretionary purchase of The Lodge;
- 3) detailed discussions with Property Services to optimise the use of the asset whilst owned by The Council and minimise the impact on existing project budget as outlined in the Financial Implications Section.

## **SUMMARY OF REPORT**

The Council's Executive approved the alignment of the Arborfield Cross Relief Road on 26<sup>th</sup> March 2015 and authorised progression of the scheme design in order for a planning application to be submitted.

As a consequence the owners of The Lodge have asked the Council to purchase the property due to its proximity to the new road and the impact it would have on them and their future plans.

The application has been assessed in accordance with the Executive Approved Discretionary Land Acquisition Policy for Highway Works. The assessment meets the criteria of the policy and combined with the legal advice, suggests the Council should proceed with a discretionary purchase of the property.

## **Background**

The Council's Core Strategy identifies a requirement to enhance the A327 to effectively mitigate traffic growth impacts generated by development at Arborfield Garrison and the South of M4 SDL. The Council indicated that a relief road to Arborfield Cross would provide the most effective form of mitigation against these impacts.

The Executive approved at its meeting on 26<sup>th</sup> March 2015 the route option for the relief road following public consultation and permitted the scheme be taken forward to a planning application.

The current owners of The Lodge wish to sell their property due to personal circumstances and its immediate proximity to the approved alignment (approximately 39m from the property boundary to the centreline of the proposed alignment). The owners approached the Council in April 2015 requesting a discretionary purchase of the property. At the current time, no part of the actual property or garden is required for construction of the proposed road.

## **Context**

Where a proposed road runs close to, but does not require any third party land, the property owners can claim compensation for the loss in value of the property due to the road through Part 1 of the Land Compensation Act 1973. A claim can only be submitted a minimum of 12 months post opening of the new road.

Where a proposed road project requires all or part of third party property, the Council will firstly negotiate with the landowner to purchase the land required. If only part of the Land is required but the owner's preference is for the whole title to be purchased, they can submit a Statutory Blight notice under the Town and Country Planning Act 1990. The Council is then required to consider purchase of the whole title.

Blight can also affect properties that are not directly on the line of a proposed road but in very close proximity. To assess such cases, the Council produced the Discretionary Land Acquisition Policy for Highway Works, which was approved by the Executive in March 2017 and is used for the basis of assessing the Lodge Application.

In assessing a discretionary application, legal advice has confirmed that it would be unlawful to make a decision based on setting a precedent and in addition, not making a decision on an application is deemed unlawful.

## **Analysis of Issues**

The owners of The Lodge wrote to the Council in April 2015 requesting the Council consider a discretionary purchase of their property following the alignment of the relief road being approved by the Executive.

The Council is yet to determine the application and in March 2017, the Discretionary Land Acquisition Policy for Highway Works was approved by the Executive and is now used to assess the application. The Policy considers the application on a staged basis as set out below:

- **Pre-conditions:**  
The application meets the pre-condition requirements of the Policy as the owners have a qualifying interest and have lived in the property for approximately 24 years and there is a confirmed route for relief road.
- **Stage 1 – Assessment of Serious Affect:**  
The primary effect on The Lodge presented by the applicants is diminution in value which is likely to exceed the 15% threshold set in the policy. Further evidence of this is included in Part 2 for reasons of commercial sensitivity. The impacts of noise either during construction or in operation are normally considered however, there is insufficient information at this time to accurately assess the impacts. The policy permits discretion with respect to this criteria which is deemed applicable in the case of the Lodge, principally due to the unique and individual circumstances of the owners outlined in Stage 2.
- **Stage 2 – The Exercise of Discretion:**  
The Stage 2 criteria are met as the owners did not have foreknowledge of the road scheme when purchasing the property. The owners have attempted to market the property and have been advised that it is unsaleable at fair market value due to the confirmed route of the relief road. Finally the owners have demonstrated they have a pressing need to sell. Further details are included in part 2 as these are deemed confidential.

The Lodge is in a unique position in relation to the relief road and the owners have demonstrated individual circumstances that result in a pressing need to sell. If a discretionary purchase were not to go ahead, the owners would be subject to significant financial loss to move property or be required to stay in the property until a minimum of 12 months post road opening in order to claim Land Compensation to reflect the loss of value of the property. This is likely to be Summer 2021 based on the current delivery programme. Neither of these options support their pressing need to sell.

The application is deemed to have met the criteria of the Executive Approved Policy and a decision could run the risk of a challenge against the Council.

#### **FINANCIAL IMPLICATIONS OF THE RECOMMENDATION**

***The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.***

|                                   | How much will it Cost/ (Save) | Is there sufficient funding – if not quantify the Shortfall | Revenue or Capital? |
|-----------------------------------|-------------------------------|---|---------------------|
| Current Financial Year (Year 1)   | See Part 2                    | Yes   | Capital             |
| Next Financial Year (Year 2)      | £0                            | N/A   | N/A                 |
| Following Financial Year (Year 3) | £0                            | N/A   | N/A                 |

**Other financial information relevant to the Recommendation/Decision**

The cost of purchasing The Lodge is included in Part 2 for reasons of commercial sensitivity. This cost will be met from existing project delivery budgets. The owners would meet their own legal and moving costs and the Council would not be liable for any other disturbance costs.

Purchasing of the Lodge presents the Council with an asset. Whilst the asset will reduce in value due to the proposed road, the Council would not be liable to pay Part 1 Land Compensation Costs, providing the property is retained by the Council until after the road is opened. The cost of land compensation is assumed to be equal to the loss in value and as such would present a 'break even' scenario on the assumption of market values remaining static. Not having to administer the Land Compensation negotiations is a significant benefit as this is often a costly and protracted process based on experience of previous highway schemes. This is particularly relevant given the likely value of compensation as outlined in Part 2.

Whilst the asset is owned by the Council, it will need to be kept secure and in a good state of repair in order to retain its value. The Council has considered options to reduce these costs including letting the property through the private market. The Council will progress discussions if the property is acquired to minimise the cost of holding the asset.

**Cross-Council Implications**

Delivery of the Arborfield Cross Relief Road help to mitigate traffic impacts and congestion associated with the planned housing provision at Arborfield Garrison and South of M4 SDL.

**Reasons for considering the report in Part 2**

The Part 2 sheet contains information relating to the personal status, financial and business affairs of the owner of the property and sets out the detailed assessment of the application.

**List of Background Papers**

None

|   |   |
|---|---|
| <b>Contact</b> Sam Goss – Project Manager | <b>Service</b> Highways & Transport   |
| <b>Telephone No</b> 01189746834           | <b>Email</b> <a href="mailto:sam.goss@wokingham.gov.uk">sam.goss@wokingham.gov.uk</a> |
| <b>Date</b> 19 June 2017                  | <b>Version No.</b> 1  |