

# Surrey Heath Borough Council

## Executive

15<sup>th</sup> November 2022

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### **Agreement to grant rights of access at 84 -100 Park Street, Camberley to facilitate development of 61 sheltered apartments**

Portfolio Holder:	Leader – Legal Services
Head of Service:	Head of Legal Services and Democratic Services
Report Author:	Head of Legal Services and Democratic Services
Key Decision:	No
Wards Affected:	St Michaels and Town
Date Portfolio Holder Signed Off the report	2 November 2022

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#### **1. Summary and purpose**

- 1.1 The Executive is asked to consider the proposal to grant rights of access over a Council-owned accessway in order to enable a development of 61 sheltered apartments at Park Street, Camberley to proceed.

#### **2. Recommendation**

- 2.1 The Executive is advised to RESOLVE:
- (i) to accept a premium of £28,400 to grant access rights over a Council-owned accessway shown coloured brown on the plan in Annex 2; and
  - (ii) to grant authority to the Head of Legal and Democratic Services to conclude the agreement for the grant of rights of access.

#### **3. Background and Supporting Information**

- 3.1 Planning permission was granted on appeal on 4th May 2020 for the demolition of buildings on the site, shown edged red in Annex 1, and the erection of 61 sheltered apartments with associated access, electric buggy/cycle store, refuse bin store, landscaping and 61 car parking spaces.
- 3.2 The planning permission contains a condition which requires that development shall begin not later than 3 years from the date of the appeal decision (4th May 2020). Therefore, certainty on rights of access over the accessway is needed urgently to enable the developer to be in a position to mobilise to commence development before May 2023.

- 3.3 The developer, and site owner, entered into a unilateral undertaking dated 13<sup>th</sup> November 2019 to secure affordable housing and strategic access management and monitoring contributions. The affordable housing contribution is £394,480 and the strategic access management and monitoring contribution is £26,366. Both contributions are indexed-linked.
- 3.4 The Council owns the accessway to the entrance of the site and entered into an agreement with the site owner, and developer, on 20<sup>th</sup> November 2018 to grant access rights over the accessway. However this agreement has now expired. In order to now progress the development, the site owner and developer wish to renew the agreement. It is proposed that the renewed agreement will also grant the developer the right to pass service media underneath the accessway.
- 3.5 The proposed premium payable to the Council, in a new agreement, is £28,400 which is supported by valuation dated 5<sup>th</sup> October 2022. The valuation was commissioned on the basis of the site having the benefit of the current planning permission. Accordingly, development potential is factored into the valuation of the accessway. The premium in the expired agreement was £25,000.
- 3.6 It must be noted that concluding an agreement for access rights does not guarantee that development will commence; the agreement only gives future owners of sheltered apartments rights of access to, and egress from, the development and the right for the developer to pass service media underneath the accessway to serve the development. However the rights of access are necessary to progress the development.

#### **4. Reasons for Recommendation**

- 4.1 To enable the development to commence and provide an additional 61 sheltered apartments in Camberley.

#### **5. Alternative Options**

- 5.1 The alternative options for the Executive to consider are:
- i. Reject the proposed agreement for rights of access.

#### **6. Contribution to the Council's Five Year Strategy**

- 6.1 One aim of the Council's five year strategy is "*Through our strategic planning, we will ensure that we balance our commitments to housing delivery and economic growth, alongside preserving and enhancing the natural environment as a place to enjoy and spend time.*" Granting the rights of access over accessway would enable the development to progress and provide an additional 61 sheltered apartments in Camberley.

## **7. Resource Implications**

- 7.1 Legal services will be engaged in drafting the legal agreement and executing the final agreement.

## **8. Section 151 Officer Comments**

- 8.1 Financial implications are set out in this report.

## **9. Legal and Governance Issues**

- 9.1 The Council is under a duty under section 123 of the Local Government Act 1972 to achieve best value for the grant of any legal rights of access. The proposed premium is supported by a valuation and accepting the value of £28,400 discharges this duty.
- 9.2 The Head of Legal and Democratic Services has delegated authority to grant access rights over land up to a limit of £25,000. The proposed premium exceeds this delegated limit and therefore any agreement to grant rights of access is an Executive decision.

## **10. Monitoring Officer Comments**

- 10.1 No matters arising.

## **11. Other Considerations and Impacts**

- 11.1 No matters arising.

## **12. Environment and Climate Change**

- 12.1 No matters arising.

## **13. Equalities and Human Rights**

- 13.1 No matter arising.

## **14. Risk Management**

- 14.1 No matters arising.

## **15. Community Engagement**

- 15.1 No matters arising.

## **16. Annexes**

- 16.1 Annex 1 - Site Plan
- 16.2 Annex 2 - Accessway

## **17. Background Papers**

17.1 None.