

Surrey Heath Borough Council
Executive
21 November 2023

Appropriation and transfer of land at The Green, Frimley Green

Portfolio Holder:	Cllr Alan Ashbery Sustainable Transport & Planning
Strategic Director/Head of Service	Bob Watson/Gavin Chinniah
Report Authors:	Sarita Bishop Principal Planning Officer (Major Projects)/William Hinde Principal Solicitor
Key Decision:	Yes
Date Portfolio Holder signed off the report	20 October 2023
Wards Affected:	Mytchett & Deepcut and Frimley Green

Summary and purpose

The Section 106 Agreement relating to the residential led redevelopment of the Princess Royal Barracks site in Deepcut prohibits the construction of more than 600 dwellings (unless otherwise agreed with Surrey Heath Borough Council and Surrey County Council) until the applicant has entered into a highways agreement in respect of the highway works which are shown in the layout plan attached at Annex B. In order to facilitate the highway works, which includes the widening of the road, a small area of common land owned by Surrey Heath Borough Council shown edged red at Annex A located at The Green in Frimley Green (“the Land”) needs to be appropriated for the benefit, improvement and development of the area and subsequently transferred to Surrey County Council.

Recommendation

The Executive is advised to RESOLVE that

- (i) the common land at the Green in Frimley Green, as identified at Annex A to this report, be appropriated for the benefit, improvement and development of the area; and
- (ii) the disposal of the Land to Surrey County Council for no purchase price to facilitate highway improvement works required in connection with the residential led redevelopment of the Princess Royal Barracks site in Deepcut be agreed.

1. Background and Supporting Information

- 1.1 In 2014 planning permission was granted for the residential led redevelopment of the Princess Royal Barracks totalling 1200 dwellings, 12/0546 as amended. This permission was subject to a Section 106 agreement, now varied, which secured various works and contributions to provide the community, social, economic and highway infrastructure necessary to support the development.
- 1.2 One of the highway provisions in the original agreement sought the replacement of the existing roundabouts, located at the junctions of Frimley Green Road with Wharf Road and Guildford Road with Sturt Road in Frimley Green, with the provision of two traffic light controlled junctions. The purpose of these works is to mitigate the impact of the additional traffic generation arising from the development on the local highway network.
- 1.3 However, given local concerns raised about the impact of the traffic light controlled junction, a campaign was initiated to amend the scheme in the legal agreement to one that was based on two roundabouts. With the agreement of the applicant and Surrey County Council, a revised layout based on a two roundabout layout was submitted under the application to vary the provisions in the Section 106 agreement, 21/1003/MPO. This was agreed by the Planning Applications Committee in December 2021 and secured by a deed of variation dated 21 January 2022 (the fifth deed of variation). A copy of the proposed layout plan for highway improvements is attached as Annex B.
- 1.4 These works are subject to two delivery triggers. The first trigger is not to commence the construction of more than 600 dwellings until the applicant has entered into a highway agreement in respect of the highway works generally in accordance with the layout plan attached as Annex B. This is currently being drafted. The second trigger is that the highway works are to be substantially complete prior to the occupation of the 700th dwelling. As of July 2023, 378 dwellings had commenced and 337 dwellings were occupied.
- 1.5 There is also an obligation for Surrey Heath Borough Council to be party to the highway agreement and for it to dedicate any required land including common land as publicly maintainable highway under the terms of the highway agreement, although the transfer of the Land would negate this requirement. These works are to commence within 6 months of entering into the highway agreement. The proposed works are an integral part of the successful redevelopment of the Princess Royal Barracks.

2. Reasons for Recommendation

- 2.1 The Land is required to facilitate the highway improvements to the junctions of Frimley Green Road with Wharf Road and Guildford Road with Sturt Road as required by the Section 106 agreement, as varied by the fifth deed of variation, in order to mitigate the transport impacts arising from the redevelopment of the Princess Royal Barracks.

3. Proposal and Alternative Options

- 3.1 The proposal is for the appropriation and disposal of an area of common land currently open space at The Green measuring 120.8 square metres adjacent to the junction of Frimley Green Road, Guildford Road and Sturt Road, Frimley Green to facilitate highway improvements required as part of the redevelopment of the Princess Royal Barracks as shown on the plan attached as Annex B.
- 3.2 An alternative is that the Land is appropriated for the benefit, improvement and development of the area, but rather than transferring the land to Surrey County Council, Surrey Heath Borough Council enters into a highways agreement and dedicates the land as highway. From a practical land management perspective, it makes sense for the land to be transferred to Surrey County Council and be managed by it as there is little to no prospect of the road ever being narrowed at some point in the future and the Land being returned to its current state.
- 3.3 Another alternative solution is that Surrey County Council compulsorily purchases the Land from Surrey Heath Borough Council, but as there are two willing parties, this process is unnecessary.

4. Contribution to the Council's Five Year Strategy

- 4.1 The proposal relates to four of Surrey Heath's key priorities:

Environment: The proposed works are a component part to the successful delivery of new public open space for the new and existing communities in Deepcut and the surrounding areas as secured by the hybrid permission.

Health and Quality of Life: There is specific reference under this heading in the strategy for the Council to oversee and provide support and associated infrastructure at Deepcut. The proposed works are a component part of the works required to achieve the successful delivery of market and affordable housing at Deepcut.

Economy: The proposed works are a component part of delivering improvements to the borough's transport infrastructure. The redevelopment of the Princess Royal Barracks will deliver a new school, a public house, a supermarket, a church and church hall, local shops and a Sports Hub.

Effective and Responsive Council: The Council has listened to the concerns raised by the local community concerning the provision of the traffic light controlled junctions. It agreed the revised layout which provided a two roundabout layout. The proposed works are a component part of the implementation of the revised layout.

5. Resource Implications

- 5.1 There are no significant resource implications. Officers have been working for a long time with the applicant and Surrey County Council on how best to progress this matter and will continue to do so. The applicant has obtained counsel's opinion at its own cost to get the required expert advice which has assisted both Legal Services' teams at Surrey Heath Borough Council and Surrey County Council.

6. Section 151 Officer Comments:

- 6.1 The piece of common land has no intrinsic value to the Council and therefore disposal for no purchase price is appropriate.

7. Legal and Governance Issues

- 7.1 Surrey County Council will be making an application to the Secretary of State under section 38 of the Commons Act 2006 for consent to undertake highway works to the common land. Only once that application has been successful will the Land be transferred to Surrey County Council.
- 7.2 In order for the Land to be appropriated under section 122(1) of the Local Government Act 1972, the Land has to be no longer required for the purpose for which it is held immediately before the appropriation. As per the reasoning outlined above, the Land is no longer required as open space, but is required as highway to allow the increasing traffic to move more freely through the junctions. The redevelopment of the Princess Royal Barracks will provide new public open spaces for the communities in Deepcut and the surrounding areas such as Frimley Green which will outweigh the loss of a small section of The Green.
- 7.3 Legislation prohibits more than 250 square yards of common land from being appropriated for a different use unless consent from the Secretary of State is obtained and other land is provided in exchange. The threshold exists to give public authorities some flexibility to make minor changes to the use of common land. The Land is only 144.5 square yards, so well below the permitted threshold.

8. Monitoring Officer Comments:

- 8.1 The Scheme of Delegation in the Constitution does not provide for any Officer to appropriate the land for the benefit, improvement and development of the area. As such, the decision must be taken by the Executive.

9. Other Considerations and Impacts

Environment and Climate Change

- 9.1 No matters arising

Equalities and Human Rights

- 9.2 The proposed works includes the installation of tactile paving at pedestrian crossings to ensure people with sight loss are warned of the danger of the traffic.

Risk Management

- 9.3 If the highway works, which require the appropriation and transfer of the Land, are not delivered in accordance with the relevant triggers set out in the Section 106 agreement as varied, the residential development cannot continue which impacts on the delivery of market and affordable housing, public open space, community and leisure facilities. It would also impact on the ongoing implementation of the hybrid planning permission which expires in April 2024.

Community Engagement

- 9.4 A press notice has been put in a local newspaper for two consecutive weeks from 18 October 2023. No representations were made by any residents or other third parties.
- 9.5 For information as part of the community engagement associated with the consideration of application reference 21/1003/MPO, a total of 1161 individual letters were sent out to properties in Deepcut and Frimley Green including the Deepcut Neighbourhood Forum and the Deepcut, Frimley Green and Mytchett Society. Press notices were put in the Surrey Advertiser and the Camberley News. A total of 18 site notices were displayed including seven in Frimley Green. Three responses were received which largely related to the proposed highway works in Frimley Green. A copy of this report is attached for information as Annex C.

Annexes

- A Site location plan with the Land edged red
- B Layout plan for proposed highway improvements at the junctions of Frimley Green Road with Wharf Road and Guildford Road Frimley Green.
- C Committee report for 21/1003/MPO 9 December 2021

Background Papers

Planning permission 12/0546 dated 4 April 2014 as amended by 18/0619 dated 19 July 2019 and 18/1002 dated 14 November 2019.

Section 106 agreement dated 17 April 2014 and Fifth Deed of Variation dated 21 January 2022.