

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 7 March 2016

Portfolio:	Policy and Resources
Subject:	The Grant Of Rights To Undertake Work On Council Land
Report of:	Director of Finance and Resources
Strategy/Policy:	Asset Management Plan
Corporate Objective:	To Maintain and Extend Prosperity A Dynamic, Prudent and Progressive Council

Purpose:

To advise the Executive of a request to be granted rights to construct an access road over part of the Council's bridleway at Fareham Park Road.

Executive summary:

Last year the owner of Hope Lodge, 84, Fareham Park Road asked for confirmation that the rights they enjoyed over the Council's bridleway at Fareham Park Road did not only relate to the property Hope Lodge but any development undertaken within the curtilage of the property. The Council advised that the rights enjoyed over the bridleway did in fact extend to any development undertaken within the curtilage of the property.

The solicitor for Mildren Homes who have contracted to purchase the site of Hope Lodge to construct 7 detached houses which had received outline planning consent has requested the following. Their client require to undertake works on the bridleway in Council ownership to construct on part thereof the access road, which has also received outline planning consent to serve the 7 houses. If these rights could not be obtained the planning permission for the access road and 7 houses cannot be implemented.

Following advice from the Southampton & Fareham Legal Services Partnership the solicitor was advised of the following.

The owners of Hope Lodge have no current right or entitlement to do any works to the bridleway and would need the Council's consent to carry out the works requested to comply with the planning permission granted. Hampshire County Council Countryside Service has no objection to the Council as owners of the bridleway entering into negotiations with Mildren Homes for the works they require to undertake to a section of the bridleway. This is subject to the works proposed being agreed by HCC Countryside Service.

If approval to the works can be agreed this will be subject of a payment to the Council to reflect that without such agreement the development of the access road and 7 houses could not proceed.

Following negotiations to decide the payment required for the above rights the terms agreed are set out in the confidential Appendix A for the approval of the Executive.

Recommendation/Recommended Option:

That the Executive approves the terms agreed for the rights to construct an access road over part of the Council's bridleway at Fareham Park Road as set out in the confidential Appendix A.

Reason:

To obtain the approval to the terms agreed to grant the rights to construct an access road over part of the Council's bridleway at Fareham Park Road.

Cost of proposals:

The payment to be received by the Council for the rights requested is set out in the confidential Appendix A.

Appendices:

A: Confidential Appendix setting out the terms agreed for the rights to construct an access road over part of the Council's bridleway at Fareham Park Road.

B: Confidential - Valuation report of Hellier Langston, Chartered Surveyors.

C: Confidential – Hellier Langston Development Appraisal

D: Plan showing the area of the bridleway where rights are requested to construct the access road

Background papers: None

FAREHAM

BOROUGH COUNCIL

Executive Briefing Paper

Date:	7 March 2016
Subject:	The grant of rights to undertake work on Council land
Briefing by:	Director of Finance and Resources
Portfolio:	Policy and Resources

INTRODUCTION

1. The purpose of this briefing paper is to advise the Executive of a request to obtain rights to construct an access road over part of the Council's bridleway at Fareham Park Road.

BACKGROUND

2. During the course of last year the owner of Hope Lodge, 84, Fareham Park Road asked for confirmation that the rights they enjoyed over the Council's bridleway at Fareham Park Road did not only relate to the property Hope Lodge but any development undertaken within the curtilage of the property. Following advice from the Southampton & Fareham Legal Services Partnership the owner was advised that the rights enjoyed over the bridleway did in fact extend to any development undertaken within the curtilage of the property.
3. The solicitor for Mildren Homes who have contracted to purchase the site of Hope Lodge to construct the 7 detached houses which had received outline planning consent ref P/13/0059/OA, approved on 28 October 2014, has requested the following.
4. Their client requires rights to undertake works to the bridleway in Council ownership to construct on part thereof the access road which has received outline planning consent on 28 September 2015 ref P/15/0074/VC, to serve the 7 houses. The access road and the area of the bridleway over which rights to construct have been requested is shown coloured pink, blue and yellow on the drawing attached as Appendix D. If these rights cannot be obtained the outline planning permission for the access road and 7 houses cannot be implemented.
5. Following advice from the Southampton & Fareham Legal Services Partnership the solicitor was advised of the following.
6. The owners of Hope Lodge have no current right or entitlement to do any works to the bridleway and would need the Council's consent to carry out the works requested to comply with the planning permission granted.
7. Hampshire County Council Countryside Service has no objection to the Council as owners of the bridleway entering into negotiations with Mildren Homes for the works they require to undertake to a section of the bridleway. This is subject to the works proposed being agreed by HCC Countryside Service.

8. The solicitor for Mildren Homes was also advised that if approval to the works can be agreed this will be subject of a payment to the Council to reflect that without such agreement the development of the 7 houses could not proceed.

NEGOTIATIONS TO AGREE PAYMENT FOR THE GRANT OF THE RIGHTS REQUESTED

9. In view of the Council having to separate its role as the Local Planning Authority and acting in its capacity as the owner of the bridleway, an independent valuation of the rights requested was obtained from Hellier Langston, Chartered Surveyors.
10. The valuation approach reflects that without the rights to construct part of the access road to serve the 7 detached houses over the bridleway the development could not proceed. The Council as owners of the bridleway are therefore in possession of a “ransom strip”
11. The main case law regarding the valuation of “ransom strips” is Stokes v Cambridge Corp decided in 1961. This case sets the precedent that in a situation such as this a percentage of the uplift in value obtained by the grant of planning consent is an appropriate mechanism for the valuation of the “ransom strip”.
12. The approach is to undertake a Development Appraisal to value the 7 detached houses proposed to be built, GDV (Gross Development Value) and deduct from this figure the costs of building the houses taking account of other ancillary costs such as planning contributions, GDV (Gross Development Costs). This produces a residual site value i.e., the sum available to purchase the land. From the residual site value is deducted the existing use value of the land, in this case the value of Hope Lodge, a detached bungalow to arrive at the development uplift to be shared between the owner of the site and the owner of the “ransom strip.”
13. The valuation report of Hellier Langston is attached as confidential Appendix B and their development appraisal as confidential Appendix C.

FINANCIAL IMPLICATIONS

14. The confidential appendix A advises of the sum agreed to be paid for the grant of the rights requested to construct the access road over part of the Council’s bridleway at Fareham Park Road.

CONCLUSION

15. The Executive briefing paper advises of a request from the owner of Hope Lodge, 84 Fareham Park Road, to be granted rights to construct an access road over part of the Council’s bridleway at Fareham Park Road. The terms agreed for the grant of the rights are set out in the confidential Appendix A for the approval of the Executive.