

KENT COUNTY COUNCIL

POLICY AND RESOURCES CABINET COMMITTEE

MINUTES of a meeting of the Policy and Resources Cabinet Committee held online on Tuesday, 22 February 2022

PRESENT: Mr R J Thomas (Chair), Mr R A Marsh (Vice-Chairman), Mr Baker (Substitute for Mr N J D Chard), Mr P V Barrington-King, Mr P Bartlett, Mr T Bond, Mr A Brady, Mr T Cannon, Mr G Cooke, Mr M Dendor, Mr R C Love, OBE, Mr J P McInroy, Mr P Stepto and Dr L Sullivan

ALSO PRESENT: Mr P J Oakford and Mr H Rayner

IN ATTENDANCE: Mrs R Spore (Director of Infrastructure), Mr H D'Alton (Investment and Disposal Surveyor), Mr B Watts (General Counsel), Mr G Singh (Barrister), Miss T A Grayell (Democratic Services Officer) and Hayley Savage (Democratic Services Officer)

UNRESTRICTED ITEMS

57. Apologies and Substitutes

(Item 2)

Apologies for absence had been received from Mr N J D Chard and Mr A Hook.

Mr N Baker was present as a substitute for Mr Chard.

58. Declarations of Interest by Members in items on the Agenda

(Item 3)

There were no declarations of interest.

59. 22/00013 - Use of s203 powers in respect of Land in Sevenoaks contained in titles TT47148 and K971987. Implementation of planning consent KCC/SE/0045/2021

(Item 4)

The Chair asked Members if they wished to refer to the information included in the exempt Appendix F to the report. No Member expressed a wish to do so and the discussion of the item took place entirely in open session.

1. The Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, Mr P J Oakford, introduced the item and explained that the issue was being brought to the committee to give them an opportunity to consider and hopefully support the proposed course of action. The County Council needed to overcome restrictive covenants on the land to allow the development of much-needed playing fields and sporting facilities for use by the adjoining schools and local community.

2. Mr D'Alton added that most of the information being presented to Members was in an unrestricted report as the Council wanted to be as open as possible about

the matter and the proposed decision. He explained that restrictive covenants existed across the Wildernesse Estate which limited the type of development which could take place, and that all landowners were simultaneously burdened and benefit from the covenants. These covenants were relevant to the land owned by the County Council. The Council had identified and consulted over 280 potential beneficiaries and received 54 responses, most of which noted the Council's right to use statutory powers but sought to secure an additional legal agreement to reinstate covenants for the future protection of the land, should it cease to be used for the purposes set out in the planning consent. He explained that s203 of the Housing and Planning Act 2016 gave the Council the power to override the covenants in relation to a specific planning consent, but not to extinguish the covenants, and the covenants would still be enforceable should an alternative use be proposed for the site in the future. Mr D'Alton then responded to comments and questions from the committee, including the following:-

- a) the Chair and other Members welcomed and commended the fullness of the information presented and the consultation and preparatory work undertaken by officers;
 - b) the Vice-Chairman of the committee, who was also the Chairman of the Council's Planning Applications Committee, agreed that the explanation of the covenant and the Council's powers under s203 made the issue clear for the committee and provided reassurance that it had been properly handled;
 - c) it was pointed out that, in June 2021, the Children's, Young People and Education Cabinet Committee had discussed and supported the principal of extending local playing fields to benefit the local schools;
 - d) asked about the significance of the different-coloured shading on the plans presented, Mr D'Alton advised that Land Registry plans included additional information which was not relevant to the issue in hand. He clarified that the school sites concerned were those edged in red on the plans presented with the report; and
 - e) it was emphasised that the schools' need to use the land as playing fields would be long-term and that it seemed very unlikely that any other future use would arise. Local residents had supported the schools' need for additional playing fields, which would also provide a useful local amenity for the community.
3. It was RESOLVED that the decision proposed to be taken by the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services:
- a) to exercise the Council's powers granted by section 203 of the Housing and Planning Act 2016 to override restrictive covenants relating to Land on the South Side of Seal Road (TT47148) and adjacent site occupied by Trinity School and Tunbridge Wells Grammar School (K971987), as necessary to facilitate the implementation of planning permission ref KCC/SE/0045/2021:
"New external sports facilities - comprising of two multi-use games areas and two all-weather floodlit pitches on the existing school playing

fields, and change of use of an area of land to the east of the school site to grass playing field, together with associated landscaping and access works”;

- b) to delegate authority to the Director of Infrastructure, in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, to formalise terms and authorise the execution of any necessary or desirable legal documentation to give effect to the above decision; and
- c) to delegate authority to the Director of Infrastructure, in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, to finalise the terms of any compensation agreement in relation to Kent County Council exercising its statutory powers to override the restrictive covenants in relation to the implementation of the planning permission,

be endorsed, with two abstentions.