

Outcome of Reconsideration of Decision **DD/025/20/DC - Sale of land at Glapwell**

Original Decision

The Director of Development made the following decision (DD-025-20-DC) on 5th May 2020:

To dispose of the parcel of land, shown edged in red on the attached plan, on Park Avenue, Glapwell on the terms as set out in the report.

Call In

The decision was called in by three Scrutiny Members and was referred to Growth Scrutiny Committee. The Committee considered the call in of Delegated Decision - DD-025-20-DC - sale of land at Glapwell at an extraordinary meeting and resolved:-

RESOLVED - That Growth Scrutiny Committee refer the decision (DD/025/20/DC) back to the Director of Development to request that it be reconsidered, due to the following concerns:

1. The timing of this decision is called into question as there was no urgent need to make the decision and no urgent need to use delegated powers to do so.
2. Considering the impact on the local community of the decision to sell the land, the decision was not proportionate to what would be achieved by the sale.
3. The way in which the decision was taken was not fully open and transparent and further consultation should have taken place with Ward Members and the public.
4. The Director of Development is requested to seek further legal advice on the issue of whether the land is open space and to clarify the appropriate method of disposal, in line with the Council's Joint Disposal and Acquisitions Policy.

Reconsideration of the decision by the Director of Development

Each of the four areas have been reviewed and the findings are as follows.

1. The timing of the Decision and urgency.

The sale of the land followed the correct process. The sale was placed on the list of key decisions on 1st April 2020 with a decision date set for 1st May 2020. At the time there were no scheduled Executive meetings and there was no indication on when the next meeting would take place. An extension to the delegation scheme was approved under emergency powers on the 23rd March 2020 to enable the normal operation of the Council to continue. A delegated decision (DD) form was

filled in and reviewed by statutory officers who raised no concerns and the Delegated Decision was signed off on the 5th May 2020, which was 4 days after the original decision date meaning the correct length of notice period had elapsed before the decision was taken. The DD form asks whether general exception or special urgency rules apply to the decision. There was no reason for exception or special urgency and this was clearly marked on the form. This means that the decision was open to full scrutiny. I am satisfied that the decision was not rushed and was taken in line with normal timescales and in accordance with the Council Constitution. The DD was published on 7th May 2020 on the Council's website and circulated to all Members, so the decision was transparent.

2. The impact on the local community and decision not being proportionate.

The planning process deals with the impact on the community, this is not something set out in the Joint Acquisitions and Disposals Policy. In terms of proportionality, I consider that the decision was proportionate to what would be achieved and that no counter argument has been put forward on this point. The policy requires officers to carry out due diligence to ensure Asset Management Group advice has been taken, prescribes the disposal method and seeks to ensure the Council complies with section 123 of the Local Government Act 1972. I am satisfied that due process has been followed.

3. The decision was taken was not fully open and transparent and further consultation should have taken place with Ward Members and the public.

As outlined in point one, the correct process was followed and was fully open and transparent in line with the Council's Constitution. There is no general requirement to consult with the public on land sales. From a review of information it was clear that local members were aware of the land sale. Following Growth Scrutiny in June, local members were invited to submit their thoughts on the sale which confirmed that 2 local Members were against the sale and 1 supported the sale. This was taken into consideration when the review of the decision was carried out. The reasons for not selling the land from local members submissions focus on planning considerations, which having looked at the planning objection have been considered as part of the planning process, or that process has not been followed, which has been explored in section 1 and 2. I am satisfied that the decision was made knowing and having taking into consideration local and Executive Member's views.

4. Further legal advice on the issue of whether the land is open space and to clarify the appropriate method of disposal, in line with the Council's Joint Disposal and Acquisitions Policy.

I can confirm that I have taken further legal advice and that they confirm that the appropriate method of disposal has been used in line with the Disposals and

Acquisitions Policy. In relation to whether the land is public open space, their view was and is that it is for the decision maker to assess this.

Alternative Access

Although not part of the resolution, The Director of Development was asked to contact the proposed purchaser to ask them to reconsider using Park Avenue as access to the site. A letter was sent on the 11th June which requested they reconsider using Park Avenue as access to the site, but instead using an alternative access across the land to the rear of Glapwell Cricket Ground. The proposed purchaser wrote back stating they had reviewed access with their planning consultants and felt that Park Avenue was the best access to the site and that they wanted to continue to pursue this option.

Decision following reconsideration

I have reviewed Members' concerns and I am happy with the original decision.

Next Steps

The outcome of the next steps will determine what happens with the sale of the land. The land has been assessed as not being public open space. However, to remove any future argument, the land will be advertised and due process followed. Since the Growth Scrutiny Committee call in meeting, the land has been registered as an Asset of Community Value, any disposal will follow the restrictions set out on the disposal of listed assets.