

DECISION NOTICE



For office use :
Notice and report e-
mailed to EMT,
Democratic
Services, Comms
Team and Report
Author, on 29
November 2016

NOTICE OF DECISION MADE BY PORTFOLIO HOLDER DECISION: LAWTON 3.16

(To be made available at the main offices of the Council and sent to all members of the Council within 3 working days of the decision.)

The Council's Constitution (Standing Order 28 – Recording of Executive Decisions; Part 3 Section D4 – Delegations to Cabinet members; and Part 4D Access to Information Procedure Rules) requires that when any decision is made by an individual Portfolio Holder a record of the decision, including a statement of the reasons for it and any alternative options considered and rejected, must be prepared and published normally **within 3 working days**.

In accordance with this requirement notice is hereby given that Councillor C J Lawton, being the Portfolio Holder for Housing and Health, made the decision detailed below on Friday 25 November 2016. This decision is not a key decision.

This notice is published on Tuesday 29 November 2016.

In accordance with the terms of the Constitution (Part 3 Section D – Overview and Scrutiny (including Call-In Procedures)), the decision detailed below will come into force, and may then be implemented, on Wednesday 7 December 2016 (i.e. following the expiry of 5 working days following the date of publication of this notice) unless during that period a notice, where either a Ward Representative (in relation to a matter in their ward) or two members of the Performance Monitoring Panel or any three members formally request in writing (requests for Call-In must be given on a form designed for that purpose, and must be signed by each subscriber to the call-in) to the Senior Legal Officer (or such other officer as is nominated by the Senior Legal Officer) before the end of the five clear Working Day period specified above, in relation to a particular decision by the Leader, a Cabinet Member or Cabinet, a Sub-Committee of Cabinet or an officer, then that decision shall be referred to the Performance Monitoring Panel. Such request must contain a justifiable reason for the reference and one or more of the signatories to the reference must forward to the Senior Legal Officer at least five clear Working Days before the date of the Committee which is to consider the matter a brief explanation or statement as to the

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concerns of the signatories in the matter, and what alternative decision(s) that member/those members consider should be taken. (The call-in period expires at 5pm on the 5th working day following publication of this notice, or 4.30pm if the 5th working day is a Friday.)

Matter to which decision relates

Land adjacent to 44 Fishpond Lane, Holbeach – To consider a request to sell an area of Council owned land (report of the Executive Director, Place enclosed).

DECISION (IF URGENT PROVIDE REASONS)

- 1) That delegated authority be granted to the Interim Landlord Services Manager to agree the sale of land as described in this report for the sum of £17,500 (ex VAT) and subject to an overage clause;
- 2) That notice of the intended sale be advertised as required by legislation and that the Interim Landlord Services Manager give due consideration to any consultation responses before exercising the delegated authority in (1) above;
- 3) That subject to (1) and (2) above, the purchaser reimburse the Council's legal and valuation fees whether or not the matter proceeds to completion; and
- 4) That delegated authority be granted to the Interim Landlord Services Manager to deal with any issues which may arise, following consultation with the Portfolio Holder for Housing

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

To do nothing – This option would mean that the applicant's intention to construct a new dwelling would be more difficult to construct, because the new dwelling would sit almost on the boundary of the property shared with the Council's land. In addition, this option would also prevent a receipt being generated to the Council for £17,500.

REASON OR REASONS FOR THE DECISION

To generate a receipt to the Council of £17,500, and alternative use for the site not viable.

Conflicts of interest declared by an executive member, relating to the decision, and any dispensations granted

None

REPORT

- 1 Lawton 3.16 - Land adjacent to 44 Fishpond Lane, Holbeach - To consider a request to sell an area of Council owned land (report of the Executive Director Place enclosed) (Pages 1 - 4)

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SOUTH HOLLAND DISTRICT COUNCIL

Report of: Executive Director – Place (Rob Walker)
To: Portfolio Holder for Housing (Councillor C Lawton)
(Author: Martin Cregg, Interim Landlord Services Manager)
Subject: Land adjacent to 44 Fishpond Lane, Holbeach
Purpose: To consider a request to sell an area of Council owned land

Recommendations:

- 1) That delegated authority be granted to the Interim Landlord Services Manager to agree the sale of land as described in this report for the sum of £17,500 (ex VAT) and subject to an overage clause;
- 2) That notice of the intended sale be advertised as required by legislation and that the Interim Landlord Services Manager give due consideration to any consultation responses before exercising the delegated authority in (1) above;
- 3) That subject to (1) and (2) above, the purchaser reimburse the Council's legal and valuation fees whether or not the matter proceeds to completion; and
- 4) That delegated authority be granted to the Interim Landlord Services Manager to deal with any issues which may arise, following consultation with the Portfolio Holder for Housing.

1.0 BACKGROUND

- 1.1 A request has been received from the owner of 44 Fishpond Lane, Holbeach, to purchase an area of Council owned adjacent to their home. The land is amenity land and is currently laid to grass.
- 1.2 The applicant has indicated that they would like to purchase the area of land to enable them to provide off street parking and a garden to a new 2 storey house for which they have planning permission in place.
- 1.3 A plan is attached in Appendix A to this report, showing the area of land the applicant wishes to purchase. The area of land measures approximately 177m² in area.
- 1.4 The land to which the request relates is Housing land, held in the Housing Revenue Account (HRA). The land is not of a sufficient size to enable satisfactory development by the Council.
- 1.5 Although the land is amenity land, it could be considered to be “open space” which would require advertising before any decision to dispose could be made. This is reflected in the recommendations to this report.
- 1.6 A valuation report has been obtained from the District Valuer, and this provided a valuation of £17,500.

1.7 In addition, it is proposed that clawback provisions (overage clause) are included in any contract of sale to ensure the Council benefitted from any future increase in value of the land resulting from the applicant obtaining planning permission for an alternative development.

2.0 **OPTIONS**

2.1 Option 1 – Do nothing (not recommended)

2.1.1 This option would mean that the applicant's intention to construct a new dwelling would be more difficult to construct, because the new dwelling would sit almost on the boundary of the property shared with the Council's land. In addition, this option would also prevent a receipt being generated to the Council for £17,500.

2.2 Option 2 – To grant the request to sell the area of Council owned land (recommended)

2.2.1 This option would enable the applicant to construct their new dwelling and provide off street parking and a garden (subject to the relevant permissions) and would also generate a receipt to the Council of £17,500.

3.0 **REASONS FOR RECOMMENDATIONS**

3.1 To generate a receipt to the Council of £17,500.

4.0 **EXPECTED BENEFITS**

4.1 The two expected benefits in this case are for the applicant to be able to construct their new dwelling, which may otherwise be more difficult to construct. The second benefit is the receipt which would be generated for the Council.

5.0 **IMPLICATIONS**

5.1 **Constitution & Legal**

5.1.1 The General Housing Consents 2013 permit a local authority to sell vacant land held for the purposes of Part II Housing Act 1985, for a consideration determined by the local authority. In this case, a market valuation has been obtained and it is proposed that the land be sold at market value.

5.1.2 Legal Services Lincolnshire have advised that, although the land is amenity land, it could be considered to be "open space" which would require advertising before any decision to dispose could be made. This is reflected in the recommendations to this report.

5.1.3 It is anticipated that this report will result in the Portfolio Holder making a non-key decision. The decision will be subject to call-in.

5.2 **Contracts**

5.2.1 It is considered that the granting of the request would have no significant implications relating to contracts, other than the preparation of the documentation relating to the sale of the land.

5.3 **Financial**

5.3.1 The granting of the request to sell the land would generate a receipt of £17,500 to the Council. The applicant has agreed to pay the Council's legal, valuation and public notice fees in respect of this matter whether or not it proceeds to completion.

5.4 **Risk Management**

5.4.1 The main risk associated with approving the recommendations of this report is around whether the Council could develop its land itself. This has been considered to see whether the Council's land could be developed alone. Following that work, it has been determined that the land is not of a sufficient size to enable satisfactory development by the Council. Consequently, the sale of the land for market value, but including clawback provisions, is recommended.

5.5 **Stakeholders / Consultation / Timescales**

5.5.1 Consultation has been carried out with relevant officers and members. Four comments were received, of which two supported the recommendations, one declined to comment, and the fourth questioned the development potential of the Council's land. The development potential was reviewed and considered, but it was concluded that the Council's land would not enable a satisfactory development. On that basis, and provided that clawback provisions were included, no objection was raised.

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 This report and its recommendations affect the Holbeach Town ward only.

7.0 **ACRONYMS**

7.1 HRA – Housing Revenue Account

Background papers:-

Lead Contact Officer

Name and Post: Martin Cregg, Interim Landlord Services Manager
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Key Decision: No

Exempt Decision: No

This report refers to a Discretionary Service

Appendices attached to this report:

- Appendix A - Site Plan

Appendix A – Site Plan

