

## **CABINET**

**18 DECEMBER 2018**

### **LAND AT CURTIS WAY, ROCHESTER PROPOSED USE FOR A COACH PARK**

Portfolio Holder: Councillor Adrian Gulvin, Resources

Report from: Richard Hicks, Director Regeneration, Culture, Environment  
and Transformation and Deputy Chief Executive

Perry Holmes, Chief Legal Officer

Author: Perry Holmes, Chief Legal Officer

#### **Summary**

This report seeks delegated authority for officers to appropriate an area of land at Curtis Way, Rochester.

#### **1. Budget and Policy Framework**

1.1 In accordance with the Constitution, Cabinet authority is required to appropriate land.

#### **2. Background**

2.1 Part of the above Council owned site (as shown edged black on the attached plan) is required for the relocation of the coach park currently located within the Rochester Riverside development area.

2.2 As the site is currently being used as informal open space, it will be necessary to appropriate the land before using it as a coach park, to advertise the proposed appropriation of the land in the local press in accordance with section 122 (2A) of the Local Government Act 1972 and to consider any objections before proceeding with the appropriation.

2.3 The Council has the general power under section 122 of the Local Government Act 1972 to appropriate land within its ownership for any purpose for which it is authorised to acquire land by agreement.

2.4 Where land is appropriated for planning purposes, Section 237 of the Town and Country Planning Act 1990 ("TCPA") provides that the development of that land is permitted even if it overrides third party rights enjoyed over that land, subject to the right of the beneficiaries of such rights to compensation.

2.5 Following appropriation, the Council can, subject to planning, construct a designated coach parking area on the site to facilitate the relocation from the existing location within the Rochester Riverside development area.

### **3. Options**

3.1 Option 1 - Appropriate part of the site to enable subject to planning, relocation of the existing coach park located at Rochester Riverside. Discharging planning condition 15 of planning consent MC/17/2333 for Rochester Riverside.

3.2 Option 2 - Do not appropriate part of the site which will mean that Planning condition 15 of planning consent MC/17/2333 for Rochester Riverside cannot be discharged unless the Council can identify an alternative site for the relocation of the existing Coach park. The Council has been trying to identify an alternative site for the Coach Park for 3 years and has considered 53 different options, however none of these have come to fruition.

### **4. Advice and Analysis**

4.1 It is considered that using part of the site for the Coach Park and appropriating this part for Coach Park use is the best option (option 1).

### **5. Consultation**

5.1 Consultation on this proposal has taken place with the following:

- Leader of the Council.
- Deputy Leader of the Council.
- Rochester South & Horsted Ward Councillors.
- Senior Officers – Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, Chief Legal Officer, Head of Regeneration Delivery, Head of Planning, Policy Planners, Tourism team and Greenspaces.

5.2 Public consultation was undertaken in May 2018 as part of planning application MC/18/2348 to extend coach parking bays on Corporation Street. Planning permission for Corporation Street was agreed by the Planning Committee at its meeting on 24 October 2018 (minute no. 468/2018 refers).

5.3 Further general coach parking consultation was also carried out with coach operators, town forums, PACT groups and Ward Councillors (River and Rochester East Wards).

5.4 A planning application for development of part of the site as a designated coach parking area will be submitted in December 2018.

### **6. Financial and legal implications**

6.1 In accordance with the Constitution, any decision to appropriate land needs to be approved by Cabinet.

6.2 Section 122 of the Local Government Act 1972 enables the Council to appropriate land from one purpose to another if immediately before the

appropriation, the land is no longer required for the purpose for which it is held. It is considered that part of the site can be used for a Coach Park on the basis that part of the site is retained for open space.

- 6.3 Section 226 of the TCPA provides that a Council may acquire or appropriate land for planning purposes, if it thinks that this will facilitate the carrying out of development, re-development or improvement on or in relation to the land which is likely to contribute to the promotion or improvement of the economic social or environmental well-being of their area.
- 6.4 Once an appropriation has taken place, Section 233 of the TCPA enables the Council to use the appropriated land for planning purposes, in such a manner and subject to such conditions as appear to it to be expedient in order to secure the best use of the land or to secure the erection, construction or carrying out on it of any buildings or works appearing to it to be needed for the proper planning of the area.
- 6.5 Provided that the site has been validly appropriated for planning purposes, then under Section 237 of the TCPA, the erection, construction or carrying out or maintenance of any building or work on land which has been acquired or appropriated (by the Council or any person deriving title from the Council) is authorised if done in accordance with planning permission.
- 6.6 This project is included in the existing Capital Programme (9T078 – Coach Park Improvements - £560,000).

## 7. Risk Management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Appropriation of the open space is not approved	The Council cannot relocate the current coach park area in Rochester Riverside development area and will not be able to meet Planning condition 15 on MC/17/2333 Rochester Riverside.	Appropriate the land.	B2
Appropriation is not approved and if planning permission granted this cannot be implemented.	The Council cannot relocate the current coach park area in Rochester Riverside development area and will not be able to meet Planning	Appropriate the land.	B2

	condition 15 on MC/17/2333 Rochester Riverside.		
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## 8. Recommendation

8.1 That Cabinet is asked to agree to delegate authority to the Chief Legal Officer, in consultation with the Portfolio Holder for Resources, to:

- (i) Advertise the proposed appropriation of an area of land at Curtis Way, Rochester, within the site edged black on the plan set out in Appendix 1 to the report, for use as a Coach Park.
- (ii) Consider any objections to the proposal and determine whether or not to appropriate the land at Curtis Way, Rochester, within the site edged black on the plan set out in Appendix 1 to the report, so that the land can be used for a Coach Park, subject to planning permission being obtained for this purpose.

## 9. Suggested reasons for decision

9.1 The appropriation of the land will allow the Council to relocate the existing coach park within Rochester Riverside development area and meet Planning condition 15 of MC/17/2333 Rochester Riverside.

### Lead officer contact

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### Appendices

Appendix 1 – site plan

### Background papers

Cabinet Report Gateway 3 Contract Award: Rochester Riverside Regeneration  
8 March 2016

<https://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?IId=15853&Opt=0>