

LAND ACQUISITION CHERRY ORCHARD JUBILEE COUNTRY PARK

1 SUMMARY

- 1.1 The report seeks approval to make a compulsory purchase order under Section 226(1)(a) of the Town and Country Planning Act 1990 to acquire the areas of land, identified as sites A and D on the plan at Appendix 1 (which is to follow), for the development and improvement of the Cherry Orchard Jubilee Country Park.

2 DETAILS

- 2.1 Following the Council's decision (Minute 299/06) to extend and develop the Country park by the acquisition of additional areas A and D, as indicated on the plan at Appendix 1, the landowners concerned have been approached with a view to reaching agreement on the purchase of these areas.
- 2.2 Planning permission for the change of use of Areas A and D from agricultural land to land forming an extension to Cherry Orchard Jubilee Country Park and access off B1013 into Area D, was granted at the Development Control Committee on the 13th September 2007 under reference 07/00652/DP3.
- 2.3 There have been ongoing negotiations with one landowner but no formal agreement has yet been reached and no progress has been made with the Owners of area D who have indicated that they would be unwilling to sell their land. To ensure the Council can proceed with the development of the Country Park it is considered necessary to progress the making of a compulsory purchase order for the acquisition of both these areas of land.
- 2.4 The Council has power under Section 226(1)(a) of the Town and Country Planning 1990 Act to compulsorily acquire any land in its area, which is suitable for and required in order to secure the carrying out of development, re-development or improvement. In exercising this power the Council has to be satisfied that the redevelopment or improvement is likely to contribute to the promotion or improvement of the economic, social or environmental well being of the area.
- 2.5 The extension and development of the country park is an established aim of the Council and forms an intrinsic part of the Council's planning policy in the replacement Local Plan and the Local Development Framework draft Core Strategy. The development is a key Corporate aim in the Council's Corporate plan and planning consent has now been granted for areas A and D to be developed as an extension to the Country Park. The acquisition of these areas will make a contribution to the promotion and improvement of the social and environmental well being of the area and is considered to be in the public interest.

- 2.6 A consultation exercise is currently being undertaken regarding the public facilities to be provided in the extended park. Once this has been completed detailed project and management plans will be prepared for the further development and provision of public facilities.

3 RISK IMPLICATIONS

- 3.1 Unless compulsory purchase powers are utilised it is unlikely that the Council will be able to acquire the required land and achieve the corporate and planning objectives for the development of the Country Park.

4 ENVIRONMENTAL IMPLICATIONS

- 4.1 The development of the Country Park by acquiring both areas would contribute to the improvement of the environmental well being of the District.

5 RESOURCE IMPLICATIONS

- 5.1 Provision has been made for the purchase of these areas of land in the capital programme. The acquisition costs for both areas including capital works have been estimated for within this year's revised capital budget. This does not include the cost of additional facilities for further development of the park that may arise from the consultation exercise, which will be the subject of separate proposals as part of the budget process.

6 LEGAL IMPLICATIONS

- 6.1 The compulsory acquisition of land affects human rights and the Council must have proper regard to the provisions of the Human Rights Act 1998, in particular Article I of the first protocol which is relevant to proprietary interests and the entitlement to the peaceful enjoyment of possessions. Compulsory acquisition of property involves an interference with a person's rights under this Article and such action should only be taken where the benefits outweigh any adverse effect on the rights of the landowner and the action is necessary and proportionate.
- 6.2 In the present case it is considered that the public interest in bringing into the control of the Council the land necessary to develop the Country Park outweighs the rights of the individuals to the peaceful enjoyment of their possessions, and the action amounts to a proportionate interference in all the circumstances. In this regard the availability of compensation to those who are deprived of their property rights is of relevance to the issue of proportionality.

7 RECOMMENDATION

- 7.1 It is proposed that the Board **RESOLVES**

- (1) To authorise the Head of Legal Services to make a Compulsory Purchase Order under section 226 (1)(a) of the Town and Country

Planning Act 1990 for the two areas of land to the west and east of Cherry Orchard Jubilee Country Park public open space Blatches Chase Eastwood as identified on the appended plan as site A and Site D, and to take all necessary steps to secure confirmation of the Order.

- (2) That the Order be named Rochford District Council (Cherry Orchard Jubilee Country Park) Compulsory Purchase Order 2007.
- (3) To authorise the Head of Legal Services to negotiate terms for the acquisition of the sites by agreement or consequent upon the making of the compulsory purchase order.

Albert Bugeja

Head of Legal Services

Background Papers:-

None

For further information please contact Albert Bugeja on:-

Tel:- 01702318130

E-Mail:- albert.bugeja@rochford.gov.uk

If you would like this report in large print, braille or another language please contact 01702 546366.

