

Guildford Borough Council

Report to: Executive

Date: 18 April 2024

Ward(s) affected: Shalford, Worplesdon

Report of Director: Legal & Democratic Services

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Report Status: Open

Option Agreement with Blackwell Park Limited in respect of purchase of Council-owned land – Outcome of call in of decision taken by the Strategic Director: Place

1. Executive Summary

- 1.1 The proposed key executive decision taken by the Strategic Director: Place on 29 February 2024 in relation to entering into an Option Agreement on 8 March 2024 with Blackwell Park Limited providing the option for them to purchase a small parcel of Council-owned land necessary to enable development on Blackwell Park was called in by a number of councillors for review by the Overview and Scrutiny Committee (OSC). The OSC considered the call-in at its special meeting held on 19 March 2024.
- 1.2 The purpose of this report is to set out formally the outcome of the review of the decision by the OSC.
- 1.3 A copy of the draft minute of the OSC's consideration of this call-in is attached as Appendix 1 to this report. The Executive is invited to note that the OSC resolved:

“That the decision taken by the Strategic Director – Place on 29 February 2024, in respect of the Option Agreement with Blackwell Park Limited providing for the purchase of Council-owned land, be endorsed”.

- 1.4 Accordingly, the decision came into immediate effect on 19 March 2024 in accordance with Overview & Scrutiny Procedure Rule 16 (f).

2. Recommendation to Executive

- 2.1 That the Executive notes the outcome of the call in by the Overview & Scrutiny Committee of the decision taken by the Strategic Director: Place on 29 February 2024 in respect of the Option Agreement with Blackwell Park Limited providing for the purchase of Council-owned land, which was to endorse that decision.

3. Reasons for Recommendation:

- 3.1. To ensure the Executive is aware of the outcome of the call-in.

4. Exemption from publication

- 4.1. No part of this report is exempt from publication.

5. Purpose of Report

- 5.1 The purpose of this report is to ask the Executive to formally note the outcome of the call in by OSC of the decision taken by the Strategic Director: Place on 29 February 2024, in respect of the Option Agreement with Blackwell Park Limited providing for the purchase of Council-owned land.

6. Strategic Priorities

- 6.1 Principles of good decision-making, such as being open and accountable, underpin the Council’s strategic framework for delivery of its vision for the Borough. Use of Overview and Scrutiny’s power of call-in can help ensure that the Council adheres to these principles.

7. Background

- 7.1 The proposed decision set out below was taken by the Strategic Director: Place on 29 February 2024:

Blackwell Park Development – Option Agreement

Decision:

“Subject to consideration of any objections to the Council’s notice of its intention to dispose of open space land pursuant to s123(2A) of the Local Government Act 1972 which closes on 7 March 2024, to enter into an Option Agreement on 8 March 2024 with Blackwell Park Limited providing the option for them to purchase a small parcel of Council-owned land necessary to enable development on Blackwell Park. If the option is exercised then, subject to the terms and conditions of the Option Agreement, the Council will transfer the land to Blackwell Park Ltd, for a further price, and an Overage Agreement will also be entered in to so that the Council can benefit from any additional financial gain as a result of the sale”.

Reasons for the decision:

“Selling the land to Blackwell Park Ltd will allow them to proceed with the development of a strategic site, allocated within the Local Plan, A26 Blackwell Farm. This meets the priorities set by the Council and supports delivery of the Local Plan.

An Option Agreement provides Blackwell Park Ltd with certainty about the sale of the land and enables the Council to benefit from an immediate financial return.

An option fee is paid to the Council on completion of the Option Agreement and then, if the option is exercised, the Council will receive a further payment (minus the amount already paid for the option) which is the higher of:

1. a set minimum value; or
2. a percentage of the development valuation.

It has been assessed that this deal represents best value for the Council in accordance with s123 of the Local Government Act 1972 and therefore it is a good use of the Council’s assets to make a financial return and support the Local Plan”.

Alternative options considered and rejected:

“The Council has considered not selling the land to Blackwell Park Ltd, this would mean that development could not be delivered on the site which would not be consistent with the Local Plan. It would also mean that the Council was not making best use of its assets by securing a financial return for the Council.

The Council has considered not entering into an Option Agreement, but this would create uncertainty for Blackwell Park Ltd in applying for planning permission and the terms of the Option Agreement ensure that the Council obtains best value as well as an immediate financial return”.

Source of Authority to take Decision: Officer Scheme of Delegation

Paragraph 3 of the list of powers delegated to the Strategic Director: Place states:

“In consultation with the appropriate lead councillor and subject to being satisfied that the Council will receive the best consideration reasonably obtainable to sell land and buildings up to 0.2 hectares in area, following consultation with the Chief Finance Officer and ward councillor(s) in compliance with the Land and Property Disposal Policy”.

The call-in procedure and options

- 7.2 In accordance with Overview and Scrutiny Procedure Rule 16, implementation of any key executive decision taken by an officer with delegated authority from the Leader/Executive is delayed for five working days after it is made to enable councillors to call in the decision for review by the OSC. In this case, five councillors called in this proposed decision for review.
- 7.3 The OSC considered the call-in at its special meeting held on 19 March 2024. A copy of the draft minute of the OSC’s consideration of the call-in is attached as Appendix 1 to this report. The Executive is invited to note that the OSC resolved:

“That the decision taken by the Strategic Director – Place on 29 February 2024, in respect of the Option Agreement with Blackwell

Park Limited providing for the purchase of Council-owned land, be endorsed”.

- 7.4 Overview & Scrutiny Procedure Rule 16 (f) provides if the OSC endorses the proposed decision, it comes into immediate force and effect.

8. Key Risks

- 8.1 None relating to this report.

9. Financial Implications

- 9.1 There are no financial implications relating to this report.
- 9.2 The financial implications associated with the proposed transaction are set out in the decision in paragraph 7.1 above.

10. Legal Implications

- 10.1 Under section 9F (2) of the Local Government Act 2000, Overview and Scrutiny has the power to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive. Furthermore, section 9F (4) empowers the Overview and Scrutiny committee to recommend that any decision made but not implemented be reconsidered by the person who made it.
- 10.2 The Council’s Constitution (Overview and Scrutiny Procedure Rule 16) indicates that the Committee’s options, if deciding to review the proposed decision itself, include referring the proposed decision back to the decision taker for reconsideration, with such comment and advice as the Committee deems appropriate, or endorsing the proposed decision.
- 10.3 If the Committee endorses the proposed decision or determines not to refer the matter back to the decision taker, the proposed decision shall take effect immediately.

11. Human Resource Implications

11.1 There are no human resource implications arising directly from this report.

12. Equality and Diversity Implications

12.1 The Council has a statutory duty under section 149 of the Equality Act 2010 which provides that a public authority must, in exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

12.2 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

13. Climate Change/Sustainability Implications

13.1 No relevant climate change/sustainability implications apply to this report.

14. Background Papers

None

15. Appendices

Appendix 1: Draft OSC Minute OS51 – Overview & Scrutiny Committee
(19 March 2024)