

Key Decision Required:	Yes	In the Forward Plan:	Yes
-------------------------------	------------	-----------------------------	------------

CABINET

24 JULY 2020

REPORT OF THE PORTFOLIO HOLDER FOR CORPORATE FINANCE AND GOVERNANCE

A.5 GRANT OF EASEMENT IN RESPECT OF A RIGHT OF WAY, OVER LAND SITUATED IN COLCHESTER ROAD, WEELEY

(Report prepared by Jennie Wilkinson)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek approval for the principle of granting an easement over land situated in Colchester Road, Weeley, shown on the Plan in Appendix A.

EXECUTIVE SUMMARY

The Council has been approached by the owner of a proposed development on Colchester Road, Weeley. Following the granting of their planning consent, they have discovered that the only access from the development to the highway is over a small piece of land owned by the Council. The owner is seeking an easement in order to provide access to the development for themselves and the future property owners, by way of the construction of a section of road to link their development to the Highway. This access is imperative to the land owner as without it the development is no longer feasible.

RECOMMENDATION(S)

That subject to their decision in respect of the report in Part B of the Agenda, Cabinet authorises the granting of an easement over the land in principle.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Council has priorities with regard to balancing the annual budget and using assets to support priorities and the granting of this easement supports these.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The granting of this easement will enable the owner to carry out their development plans and use their land effectively, as well as providing a financial gain to the Council.

Risk

The property owner will be responsible for making good the Council's land and for future maintenance of the roadway until such time as it is adopted by Essex Highways. The freehold of the land remains with the Council. It is not considered there are any significant risks in this transaction.

LEGAL

In coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Under case law following Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the district.

Section 123(1) Local Government Act 1972 (1972 Act) indicates that, a local authority may dispose of land held by it in any way it wishes so long as (section 123 (2)) the land is disposed for a consideration not less than the best that can reasonably be obtained.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

An Equality Impact Assessment has been carried out.

The local Ward Member has been made aware of this report and its recommendations.

Ward

Weeley & Tendring

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Developer was originally advised that this land was part of the public highway due to an error with Essex Highways data. Following an approach by Officers to both the Developer and Essex Highways, it was established that there is a piece of land in the Council's ownership between this development and the public highway. Without the Council granting access over this land, the Developer will not be able to proceed with the development as there is no viable alternative route.

The Developer has therefore approached the Council requesting a right of way over the land by way of an easement for themselves and their successors in title and permission to construct a joining piece of road on the land to connect their development to the public highway,

CURRENT POSITION

Two open market valuations have been carried out, in accordance with the Council's Property Dealing Procedure, full details of which are contained in the concurrent confidential report. The developer has agreed to pay the market value for the easement in accordance with the reports received.

APPENDICES

Appendix A - Plan