

## **HOOK ROAD CAR PARK AND SGN SITE - MUTUAL EASEMENT**

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<b>Wards affected:</b>	(All Wards);
<b>Urgent Decision?(yes/no)</b>	No
<b>If yes, reason urgent decision required:</b>	
<b>Appendices (attached):</b>	None

### **Summary**

This report proposes the Council and the developer of the SGN Site enter into a mutual deed of easement to facilitate, through potential future redevelopment, the enhancement of future public realm and connectivity across the Hook Road Car Park and/or SGN Site.

### **Recommendation (s)**

#### **The Committee is asked to:**

- (1) Agree to the Council entering a mutual deed of easement with the developer of the SGN Site to grant reciprocal access rights over each site's road infrastructure.**
- (2) Agree the mutual deed of easement is conditional (i.e. will not be completed or take effect) until the developer of the SGN Site is granted planning permission.**
- (3) Agree the mutual deed of easement be granted at nil premium to reflect the mutual benefit to each landowner as described in this report.**
- (4) Note that the Head of Property & Regeneration, in consultation with the Chief Finance Officer and Chief Legal Officer, has express authority to take all necessary actions further to the above decisions being made that commit resources, as is necessary and appropriate.**

#### **1 Reason for Recommendation**

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- 1.1 To facilitate the wider community benefits of enhanced public realm and connectivity across the redevelopment of the wider Hook Road Car Park and/or SGN Site.

## 2 Background

- 2.1 The Council has held a long-standing ambition to promote the redevelopment of Epsom's former Hook Road / East Street SGN Gas Works site. The SGN site is not in the Council's ownership but is located directly adjacent to the Council's Hook Road Multi-Storey Car Park.
- 2.2 The Gas Works were previously included in the Council's 2011 "Plan E" Epsom Town Centre Area Action Plan (a strategic policy document) as part of the wider "Utilities Site", which also included the Council's car park and Thames Water site.
- 2.3 More recently, the Reg 18 March 2023 consultation of the Draft Local Plan and November 2023 consultation of the Epsom Town Centre Masterplan, both included the Council's car park and the former Gas Works site as a potentially deliverable redevelopment opportunity.
- 2.4 Paragraph 4.12 (page 82) of the Draft Local Plan states; *"There is the opportunity to redevelop the site into a prominent, high density, mixed use development, which would result in an improved, attractive and better utilised environment to the eastern gateway of the town centre. New development would offer the opportunity for a better connected and rejuvenated area that would attract new residents and businesses to Epsom Town Centre."*
- 2.5 The Epsom Town Centre Masterplan reinforces this ambition and Paragraphs 3.28 and 3.29 (page 35) propose;
  - *"The Scale of the opportunity is such that a comprehensive plan should be explored to ensure the optimum regeneration benefit. As a substantial landowner, the Council has an instrumental role to play in driving forward a high-quality scheme in partnership with other landowners."*
  - *The role of the public realm will be critical to ensuring future development not only supports residential amenity but also provides permeable connections to the town centre."*
- 2.6 The above quotes aim to encourage (where possible), the working together of adjacent landowners to bring forward a wider scheme that offers enhanced public realm and connectivity benefits.
- 2.7 In the absence of taking a collaborative approach, landowners will inevitably focus on their own sites in isolation of neighbouring sites. There are many entirely valid reasons why piecemeal development occurs, but regrettably, the opportunity to maximise the wider community benefits of enhanced public realm and connectivity are frequently lost.

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### 3 Proposal

- 3.1 As the adjacent landowner (as distinct to acting in its capacity as the Local Planning Authority), the Council has the opportunity to promote the benefits of a wider site development and has therefore adopted a collaborative approach with the developer of the SGN Gas Works site.
- 3.2 To enable future site and public realm connectivity opportunities to be explored, it is proposed the two adjacent landowners (the Council and the Gas Works site developer) agree to the grant of a conditional easement across each site's road infrastructure i.e. a reciprocal easement.
- 3.3 The grant of a reciprocal easement would mutually benefit both landowners. It would enable the Gas Works developer to design a scheme that could use the Council's Rainbow Leisure Centre access road as the main entrance off East Street. In return, the Council would have access across the Gas Work developer's estate road infrastructure from the Council's Hook Road Multi-Storey Car Park entrance.
- 3.4 Further, a collaborative approach would remove the requirement for a duplicated main entrance to serve the Gas Holder site from Hook Road. By removing the need for separate, duplicated road infrastructure serving each site, the Gas Works site can be designed to maximise open space and connectivity across the wider combined site.
- 3.5 This approach carries the further benefit of futureproofing the Council's car park as the wider site's road infrastructure will already have taken account of its potential redevelopment.
- 3.6 As the easement will benefit both landowners equally, the Council's obligation to seek best value is satisfied as any financial consideration otherwise payable is extinguished. The purpose of the mutual easement is to facilitate community benefits that would otherwise be lost.
- 3.7 It is proposed the mutual easement will be conditional on the Gas Works developer being granted planning permission for a proposed scheme. This will ensure the Council can discharge its two separate capacities as landowner and Local Planning Authority (LPA) i.e. the Council as landowner is protected as it will not complete the mutual easement before the Council as LPA, has determined the contribution to the wider site's public realm and connectivity benefits.
- 3.8 However, Members will be aware that a developer can appeal a decision to refuse planning permission. It is possible that a scheme on the SGN Gas Works site provides the desired public realm connectivity benefits (promoted by this proposal) but is refused planning permission by the LPA for entirely different reasons. The developer could then potentially attain planning permission following successful appeal obliging the Council (as landowner) to complete the mutual deed of easement.

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- 3.9 Such a potential scenario is always a risk for the Council acting as LPA. However, this potential risk would equally occur if the SGN Gas Works site was redeveloped in isolation of the wider site i.e. without the Council (as landowner) agreeing to the collaborative approach adopted by the mutual deed of easement.
- 3.10 It is for the above reason that the Council's external solicitors be instructed to agree the mutual deed of easement, conditional on the successful determination of a future planning permission submitted by the developer of the Gas Works site.
- 3.11 As the agreement is conditional, the cost of the Council's legal expenses would be met by the Gas Works developer.

## 4 Risk Assessment

Legal or other duties

- 4.1 Equality Impact Assessment
  - 4.1.1 Not applicable
- 4.2 Crime & Disorder
  - 4.2.1 Not applicable
- 4.3 Safeguarding
  - 4.3.1 Not applicable
- 4.4 Dependencies
  - 4.4.1 The mutual easement will be conditional on the Gas Works developer being granted planning permission for a proposed scheme.
- 4.5 Other
  - 4.5.1 The risk of a successful Appeal against the LPA is outlined in paragraphs 3.7 to 3.10.

## 5 Financial Implications

- 5.1 The Council's external legal costs would be met by the developer of the SGN Gas Works site.
- 5.2 **Section 151 Officer's comments:** None arising from the content of this report.

## 6 Legal Implications

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- 6.1 The council has a statutory duty under the Local Government Act 1972 (“the Act”) not to dispose of its land or properties for a consideration less than the best that can reasonably be obtained, except with the express consent of the Secretary of State. However, legislation recognises that there may be circumstances where an authority considers it appropriate as in this case, the Head of Property & Regeneration considers that obtaining a reciprocal easement is of greater benefit to the council (as detailed at paragraph 3.6).
- 6.2 It is proposed the mutual easement will be conditional on the Gas Works developer being granted planning permission for a proposed scheme. The risk of a successful Appeal is outlined in paragraphs 3.7 to 3.10.
- 6.3 **Legal Officer’s comments:** Legal support has been and shall continue to be provided by external solicitors instructed by the Head of Property & Regeneration further to the agreement of the Head of Legal and Monitoring Officer.

## 7 Policies, Plans & Partnerships

- 7.1 **Council’s Key Priorities:** The following Key Priorities are engaged: Opportunity and Prosperity, Effective Council.
- 7.2 **Service Plans:** The matter is included within the current Service Delivery Plan.
- 7.3 **Climate & Environmental Impact of recommendations:** The proposal will facilitate the wider community benefits of enhanced public realm and connectivity across the potential redevelopment of the wider Hook Road Car Park and SGN Site
- 7.4 **Sustainability Policy & Community Safety Implications:** Will be considered as part of any future planning applications submitted for the wider Hook Road Car Park and SGN Site.
- 7.5 **Partnerships:** It is proposed to adopt a collaborative approach with the developer of the SGN Gas Works site to promote the wider community benefits as described in this report.

## 8 Background papers

- 8.1 The documents referred to in compiling this report are as follows:

**Previous reports:** None

**Other papers:**

- Plan E – An Area Action Plan for Epsom Town Centre (2011)  
<https://www.epsom-ewell.gov.uk/sites/default/files/documents/residents/planning/planning-policy/Plan%20E%20final%20version.pdf>

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- Regulation 18 Draft Local Plan  
<https://www.epsom-ewell.gov.uk/local-plan>
- Epsom Town Centre Masterplan  
<https://epsom-ewell.inconsult.uk/ETCMP/>