

Corporate Policy and Resources Committee



4 October 2021

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| Title | Stadbury Meadow Car Park |
| Purpose of the report | To note |
| Report Author | Heather Morgan, Group Head Regeneration and Growth |
| Ward(s) Affected | Shepperton Town |
| Exempt | No for main report but yes for Appendix 1 |
| Exemption Reason | Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings and information relating to the financial or business affairs of any particular person (including the authority holding that information) and in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information because disclosure to the public would prejudice both the financial affairs of the company and the Council as the information results from legal proceedings. |
| Corporate Priority | This item is not in the current list of Corporate Priorities but still requires a report to Committee to note |
| Recommendations | Committee is asked to: Note the report |
| Reason for Recommendation | Not applicable |

1. Key issues

- 1.1 This is a long outstanding matter, and relates to Stadbury Meadow car park, by Shepperton Lock. A company own the car park (Stadbury Meadow Car Park Ltd) and the users are all residents of Hamhaugh Island. It is accessed over a piece of land which the Council has a long lease on, with the Environment Agency (EA) being the freeholder.
- 1.2 Up until 2007 the Council had an agreement with SMCP Ltd which allowed them access over the Council's land into the car park at a very modest cost of £5.00 per annum. When this expired, negotiations commenced with the company on a new agreement with more commercial terms to reflect the value of the car parking spaces to those residents on the island. The suggested agreement sum was increased into the low tens of thousands each year. This approach has been endorsed by a succession of previous portfolio holders and Leaders in order to ensure that the Council achieved best value in terms of our assets (as is our duty to do so).

- 1.3 Protracted negotiations took place over a number of years around the amount to be paid without success. The EA (as landowner) were also pressing the Council to resolve the matter and threatened to take action against the Council if it continued to allow SMCP Ltd to have access without an agreement in place. From January 2019, SMCP Ltd pursued the argument that an agreement was not required, as they had a right of access over the land. This was disputed by the Council on a number of grounds, and the Council sought expert external legal advice on the matter as it is not a specific area of law which the in-house team have expertise in. Whilst there was on-going correspondence it was evident that the two parties were not going to be able to reach agreement. During this period, a bollard was erected by the Council in front of the car park to prevent access (periodically).
- 1.4 In an effort to resolve matters, a mediation session took place between SMCP Ltd and the Council in February 2020. No agreement was reached, and it was determined that some 'in principle' legal issues were to be ruled on in the first instance by the Lands Tribunal. Due to Covid -19 it took 14 months for the Judge to reach a decision on those matters.
- 1.5 The Tribunal found in favour of SMCP Ltd, and determined that the company has a statutory right of access over the land by virtue of the 1932 Thames Conservancy Act (and consequently no agreement is required). The Judge also ordered that the Council pay the company's costs in bringing the matter to the Lands Tribunal (which is standard).
- 1.6 The EA and the Council agreed it would accept the Tribunal's decision. The Tribunal only ruled on establishing a right of way and the costs of bringing this argument before it. The Council were aware that SMCP Ltd had other outstanding issues with the council. Rather than pursuing through the courts, negotiations have been undertaken between the Directors of SMCP Ltd and senior officers within the Council including the Chief Executive (with the support of internal and external legal advice).
- 1.7 A formal settlement has been reached on the matter, and agreed by both SMCP Ltd and the Council. The Chief Executive confirmed his approval on 8 September and the agreement was completed and signed under officer delegations (paragraph 2.1 Part 3 section (d) of the Scheme of Delegations to Officers) on [].
- 1.8 Aside from the financial settlement (covered in section 3 below), the Council has agreed to re-instatement works where the bollard was placed which will include resurfacing, beginning in September 2021. In addition, the Council will undertake hedge trimming works, and this will be included in the annual maintenance programme. Discussions will also take place with the Environment Agency (as freehold owner) to consider the possibility of reinstating the turning circle immediate in front of the car park at a future date. A letter has also gone out to residents on Hamhaugh Island and the Towpath to explain the position .

2. Options analysis and proposal

- 2.1 There are no options being proposed as agreement has been reach on this matter, and the report is for noting only.

3. Financial implications

3.1 The cost of the settlement agreement, expert legal advice (including external lawyers, counsel and expert's report) is set out in confidential **Appendix 1**.

4. Other considerations

4.1 All matters have been covered in the main body of the report.

5. Equality and Diversity

5.1 There are no impacts on equality and diversity.

6. Sustainability/Climate Change Implications

6.1 There are no sustainability or climate change implications.

7. Timetable for implementation

7.1 This report is for noting, and the settlement agreement has been signed. There is no further action to be taken.

Background papers: There are none.

Appendices:

1 Financial details (confidential)