

Executive – 2 October 2008

PROPOSED DEED OF RECTIFICATION - LAND AT FORE STREET CAR PARK, KINGSBRIDGE

Report of Head of Property Services and Head of Legal Services

Statutory Powers: Section 123 Local Government Act 1972

Financial Implications:

There are no financial implications for the Council.

Purpose

The purpose of this report is to ask Members for authority for the Council to enter into a Deed of Rectification regarding a piece of land at Fore Street Car Park, Kingsbridge (and currently forming part of the Council's registered title under DN 522258) between the Council and the legal owners of 84 Fore Street, Kingsbridge. Also, that the Council's scheme of delegation is altered so that minor property transactions of this type need not be referred in future to Executive for approval.

The Council's **Priorities** – these are not applicable to this report.

RECOMMENDATIONS

That the Executive RESOLVES that :

- 1. The Council enters into a Deed of Rectification with legal owners of the piece of land at Fore Street Car Park, Kingsbridge (which is currently shown as forming part of the Council's title DN 522258) and shown hatched black on the plan attached at Appendix 1.**
- 2. Council be RECOMMENDED to amend the scheme of delegation in order that delegated authority be given to the Head of Property Services to effect minor freehold disposals of land not required for operational purposes up to £25000 in value to the owners of adjacent or nearby property or Statutory Undertakers.**

Background

1. The land shown hatched black on the attached plan currently forms part of the Council's registered title to the Fore Street Car Park at Kingsbridge.
2. The solicitors acting for the current owners of 84 Fore Street, Kingsbridge have written to the Council, as they have discovered a discrepancy between the correct rear boundary of 84 Fore Street and the extent of the Council's registered title to the car park.
3. The land shown hatched black has been included in the Council's title in error. The land has never been occupied or maintained by the Council. The land has been used by the current owners and their predecessors for the purposes of parking and access to 84 Fore Street.

Issues

4. It is believed that an error was made on the plan in 1967 when the land was originally transferred to the Council's predecessor, the Urban District Council of Kingsbridge.
5. The error has only just come to light as the current owners are registering 84 Fore Street at the Land Registry. As part of this process, it has been found that part of that land (shown hatched black) has already been registered to the Council.
6. A Deed of Rectification needs to be completed between the Council and the legal owners of the land to remedy the error. Each party will be responsible for their own legal costs.

Future Minor Disposals

7. The Council's scheme of delegation to the Head of Property Services currently does not include minor transactions of this type and hence they require approval of the Executive. This paper proposes that the powers delegated to the Head of Property Services be expanded to include the following:
8. To effect minor freehold disposals of land not required for operational purposes up to £25000 in value to the owners of adjacent or nearby property or Statutory Undertakers.

Risk Assessment

The following are the significant risks and opportunities identified:

Opportunity	Issues / Obstacles	Benefits
To rectify the Council's records, and enter into a legal agreement to record the correct ownership of the land.	While the land is still shown to be in the Council's ownership, the Council could be liable for any third party claims in respect of this land.	Rectifying the position will remove any potential future liability to the Council.

Conclusion

10. By entering into a Deed of Rectification, the records of both parties can be amended to show the correct legal position and by altering the scheme of delegation such minor transactions will no longer be needed to be referred to Executive for approval.

James Stubbs
Head of Property Service

Executive
2 October 2008

Delyth Jenkins-Evans
Head of Legal Services

Background Documents:

Land Registry Title Number DN 522258