

Committee: Cabinet **Date:** 24 May 2018
Title: Right of Way in Little Chesterford
Portfolio Holder: Cllr Julie Redfern, Cabinet Member for Housing
Report Author: Roz Millership, Assistant Director – Housing **Key decision:** No
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Summary

1. The owners of the property at Millfields, Walden Road, Little Chesterford have obtained planning permission to build a new property in the rear garden. This new property will need to be accessed via the private access road that runs adjacent to the current property, and is owned by the Council.
2. The existing property currently has the benefit of a right of way over the access to serve a rear garage, and the owners are asking to extend that right of way to serve the new property.

Recommendations

3. That the right of way over the road for the benefit of the new property is granted, subject to the payment of a premium, the requirement to contribute towards future maintenance and limitation to the new property.
4. That the Assistant Director – Housing has delegated authority to negotiate the appropriate consideration having taken advice from an independent valuer, and relevant legal terms and conditions.

Financial Implications

5. Proceeds from granting the right of way will be ring-fenced to the HRA.

Background Papers

6. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
 - a. Planning Application UTT/17/1363/FUL
 - b. Deed of Grant dated 7 April 1971
 - c. Email request from current owner
 - d. Land Registry title plan

Impact

- 7.

Communication/Consultation	None – consultation has taken place with regards the planning application
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Community Safety	N/A
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	Disposal of housing land needs to meet the requirements of the General Disposal Consent
Sustainability	N/A
Ward-specific impacts	Little Chesterford
Workforce/Workplace	N/A

Situation

8. The owners of Millfield, Walden Road, Little Chesterford have obtained planning permission to build a new two bedroom house on land that currently forms part of their garden, at the rear of their property. The proposed site layout plan is attached to this report.
9. The existing property of Millfield has the benefit of a right of way over an access road to the north of the property, for access to their garage. This right was granted only for the benefit of the land shown edged red on the title plan attached to this report.
10. The access road is owned by the Council as it provides a rear access road to the houses at 1-16 Little Walden Road.
11. The owner is requesting to have access over our road to serve the new dwelling.
12. It has been confirmed by Legal Services that the existing easement does not provide a right of way to the new dwelling, as the new dwelling is on land that was not included in the original grant, and is to be used as a separate property, despite the fact the existing garage is to be within the new development on the additional land.
13. It is normal in these circumstances for the beneficiary of the right of way to pay a capital sum, which reflects the loss of value to the property affected by the right of way, and the increased value of the property with the benefit of it. In this case, the right of way will facilitate the development of a residential property, and it is intended that the Council take the advice of their valuer, and negotiate an appropriate sum.
14. The right of way will also include a requirement to contribute towards future maintenance and limitation to this one additional dwelling only.

15. The grant of a right of way is technically a disposal of an asset and the decision needs to be made by Members.

Risk Analysis

16.

Risk	Likelihood	Impact	Mitigating actions
Increased use of the roadway causes damage and nuisance	1 - Access only for one additional house	2 - Costs of repair or neighbour / tenant complaints	Lump Sum consideration and requirement to contribute towards future maintenance and limitation to one additional dwelling

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.