

**BABERGH DISTRICT COUNCIL**

**FROM:** Head of Contract and Asset Management

**REPORT NUMBER:** **H81**

**TO:** STRATEGY COMMITTEE

**DATE OF MEETING:** 31 July 2008

**DEVELOPMENT OF PROPERTY AT SANDRINGHAM COURT, SUDBURY**

**1. PURPOSE OF REPORT**

1.1 To seek approval for the land at Sandringham Court, Sudbury (shown edged red on the attached plan) to be appropriated from housing purposes to planning purposes. This will enable an affordable housing development comprising 4 one-bedroomed flats and associated parking to be carried out by Suffolk Heritage Housing Association Limited overriding a right of way currently enjoyed over part of the land.

**2. RECOMMENDATIONS**

2.1 That, subject to securing an indemnity for all financial liability for interference with the right of way, the Head of Contract and Asset Management be authorised to appropriate the land at Sandringham Court, Sudbury (shown edged red on the attached plan) from housing purposes to planning purposes.

The Committee is able to resolve this matter.

**3. FINANCIAL IMPLICATIONS**

3.1 Compensation will be payable for interference to the right of way as a result of the development of the land.

3.2 Suffolk Heritage Housing Association Limited has agreed to indemnify the Council against any compensation which will be payable for interference to the right of way. The compensation will be payable on a statutory basis and assessed as the value of the loss of the right of way over the land.

**4. RISK MANAGEMENT**

This assessment is relevant to Business Risk 7 – Financial Management.

<b>Risk Description</b>	<b>Likelihood</b>	<b>Seriousness or Impact</b>	<b>Mitigation Measures</b>
The garage owners will not release the right of way over the land at a market value consideration	Very high	Critical	Appropriate the land for Planning purposes thereby enabling the right of way to be overridden on development of the land subject to payment of statutory compensation

<b>Risk Description</b>	<b>Likelihood</b>	<b>Seriousness or Impact</b>	<b>Mitigation Measures</b>
The garage owners will not release the right of way unless the Council acquires the garage at a consideration in excess of the market value	Very High	Critical	Appropriate the land for Planning purposes thereby enabling the right of way to be overridden on development of the land subject to payment of statutory compensation

## 5. **KEY INFORMATION**

- 5.1 It was resolved to grant planning permission, subject to a s106 Agreement being entered into, on 8<sup>th</sup> August 2007 for the proposed development comprising 4 one-bedroomed flats and associated parking located on land at Sandringham Court shown edged red and coloured brown on the plan appended to this report. The land is owned by the Council with the exception of that part shown coloured brown which is owned by Suffolk Heritage Housing Association Limited.
- 5.2 There is a garage forecourt shown coloured green on the plan appended to this report, part of which is within the development site. The garage forecourt serves a number of Council owned garages and the former Council garage shown coloured blue on the plan appended to this report. As part of the proposed development the garage forecourt will be redesigned, updated and laid out in a much more attractive way.
- 5.3 The owners of the former Council garage enjoy a right of way over the whole of the garage forecourt. Notwithstanding this, the proposed reduction in the area of the garage forecourt as a result of the proposed development will not inhibit or affect access to and egress from the former Council garage.
- 5.4 Negotiations have taken place with the owners of the garage to vary their right of way over the garage forecourt to enable the development to proceed. The garage owners have advised the Council that they do not want to vary the right of way but they would be willing to consider selling the garage to the Council.
- 5.5 Whilst the Council is agreeable to repurchasing the garage, it has not been possible to agree terms, as the garage owners are seeking a consideration in excess of the sum recommended by the District Valuer. .
- 5.6 The Council has power to appropriate land for use for planning purposes under Section 226 of the Town and Country Planning Act 1990 (as amended) if the Council thinks that the appropriation of the land will facilitate the carrying out of development/re-development or improvement on or in relation to the land.

The Council must not exercise this power unless the development, re-development or improvement is likely to contribute to the achievement of any one of the following objects

- The promotion or improvement of the economic well-being of their area;
- The promotion or improvement of the social well being of their area;
- The promotion or improvement of the environmental well being of their area

It is considered that the proposed development of the land will promote or improve the social well being of the area because it will provide affordable housing.

It is also considered that the proposed development will promote or improve the environmental well being of the area because it will result in the physical and visual enhancement of the land.

- 5.7 Once the land has been appropriated for planning purposes, then under Section 237 of the Town and Country Planning Act 1990 (as amended) a developer deriving title from the Council who carries out the proposed development in accordance with planning permission is able to override the right of way affecting part of the land subject to the payment of compensation on a statutory basis.

## 6. **HUMAN RIGHTS**

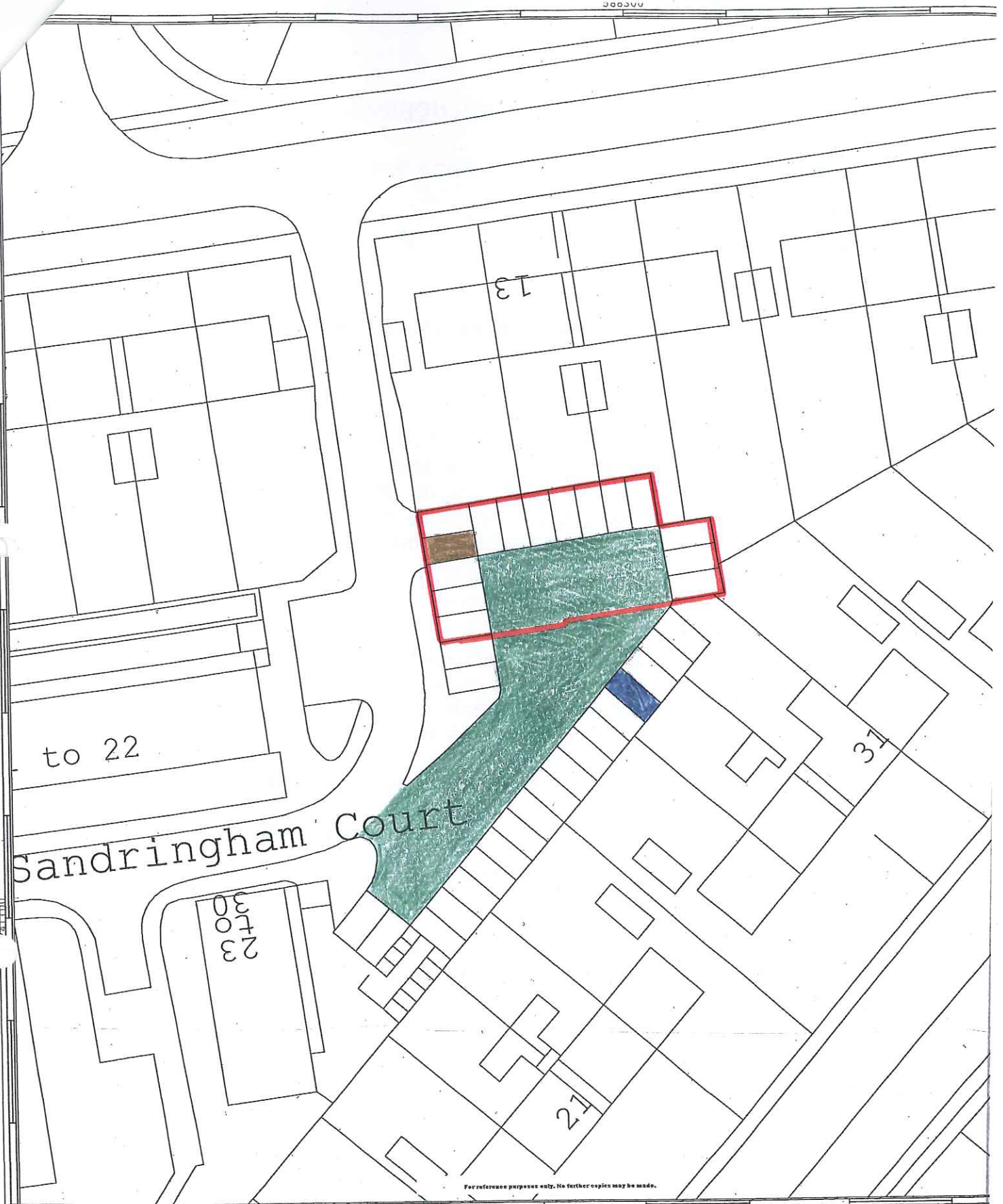
- 6.1 In exercising its powers to appropriate land, the Council must firstly consider and assess the rights of the individual under Article 1 of Protocol 1 and Article 8. It is the view of officers that any objections under Article 1 of Protocol 1 and Article 8 are outweighed by the benefits to be achieved from the development proposals in the delivery of affordable housing and regeneration of the site for the benefit of local residents.

## 7. **APPENDICES**

- 7.1 Plan showing the development site edged red, the land owned by Suffolk Heritage Housing Association Limited coloured brown, the former Council garage shown coloured blue and the garage forecourt shown coloured green.

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 DRAW. NO.

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