

NFNPA/PDCC 258/18

NEW FOREST NATIONAL PARK AUTHORITY

PLANNING COMMITTEE – 20 MARCH 2018

ROESHOT SANG - DELEGATION OF ENFORCEMENT POWERS TO CHRISTCHURCH BOROUGH COUNCIL

Report by: Julia Mutlow, Solicitor & Monitoring Officer

Summary:

This paper asks Members to consider whether enforcement powers over Roeshot SANG should be delegated to Christchurch Borough Council by virtue of an inter-authority agreement.

Recommendation:

That Members recommend to the full Authority that the Executive Director of Strategy and Planning be authorised to enter into an inter-authority agreement, relating to land at Roeshot and being the subject of planning permission 16/00846, delegating such enforcement powers, as he deems appropriate, to Christchurch Borough Council.

1. INTRODUCTION

- 1.1 On 20 March 2017, the Authority granted planning permission under reference 16/00846 for 'Change of Use of land to use as informal open air recreation space including (but not limited to use as suitable alternative greenspace (SANG); creation of pond; dipping platform; drainage; fencing; gates; information board; benches' on land off Roeshot (rear of Cat & Fiddle PYO) Hampshire. The SANG land is outlined on the plan at Annex 1. The decision notice is attached as Annex 2 for Members' assistance.
- 1.2 The permission was granted subject to conditions relating to the submission of a landscaping scheme for approval, implementation of that scheme and the provision of details relating to biodiversity mitigation, compensation and enhancement.
- 1.3 A similar application was granted by New Forest District Council (NFDC) relating to land within their administrative area on 16 June 2016.
- 1.4 These permissions were granted with a view to the delivery of a SANG to mitigate the impact of a residential development proposal situated within Christchurch Borough Council's (CBC) administrative area. However, the SANG land is situated across all three local planning authority jurisdictions, hence three separate planning applications were necessary which could lead to enforcement action being taken by three constituent authorities separately to ensure compliance with the planning conditions within their area.
- 1.5 It has therefore been proposed that, because mitigation is required only by virtue of residential development within Christchurch Borough that it would be appropriate for CBC to take on any enforcement role that becomes necessary on behalf of both NFDC and the NFNPA. NFDC has considered this matter and resolved to delegate its powers in this regard.

2. SANG DELIVERY

- 2.1** CBC has now resolved to grant planning permission for the residential development subject to conditions and the prior completion of a s106 agreement which, amongst other things, will govern delivery of the SANG. The s 106 is in the process of being finalised at the time of writing this report. As part of the application process, the Roeshot & Burton SANG Delivery Strategy (the Strategy) was prepared in July 2017. This sets out the detailed design of the SANG and the mechanisms by which this will be implemented, funded and managed that will be used to secure its function in perpetuity. A copy is appended at Annex 3.
- 2.2** The Strategy proposes that the SANG will be delivered by a ‘special purpose environmental management vehicle’ – Christchurch Environmental Management Ltd (CEM) - set up specifically for the purpose. CEM will obtain a lease of at least 80 years for the use and management of the land as SANG and monies from the sale of the housing land will be directed to CEM to establish the SANG including infrastructure such as footpaths, car parks etc. As part of the ongoing management of the SANG, it is proposed to set up a steering group comprising Natural England, CBC, NFDC and the NFNPA to monitor its function.
- 2.3** The Strategy envisages that the SANG will be delivered through s106 agreements associated with the consents for both the housing development and the SANG itself. The SANG will be implemented on a phased basis in advance of occupation of the housing development. NFNPA and NFDC have been asked to enter into an inter-authority agreement with CBC which allows CBC to enter into a section 106 agreement with the owners and developers over all the land (within all three administrative areas) to regulate the SANG. Whilst the NPA has been provided with drafts of the s106, the finally agreed draft has yet to be provided. If Members are minded to authorise the Executive Director to enter into this agreement then this will be subject to the NPA being provided with the final draft.
- 2.4** The requisite 106 agreement will allow CBC to control what happens on the SANG land to ensure appropriate mitigation occurs to counter the impact of the new housing development in CBC’s area. There are specific provisions detailing action that will be taken, in the event of a default occurring (ie. a material breach leading to a failure to maintain the land as SANG in accordance with the Strategy). These include the ability for CBC to enter the land and carry out any works that may be necessary to rectify any breach and recover the reasonable costs of doing so from a SANG escrow account set up for this purpose by virtue of the s106 obligations.
- 2.5** Under the provisions of the Local Government Act 1972, the Authority may arrange for the discharge of its functions by another local authority. The proposed inter-authority agreement effectively authorises CBC to take enforcement action on behalf of the Authority.
- 2.6** However, it should be noted that if the Authority considers that CBC is in breach of its obligations under the inter-authority agreement, then it retains the ability to ‘step in’ and take its own enforcement action on the land within the National Park.

RECOMMENDATION

That Members recommend to the full Authority that the Executive Director of Strategy and Planning be authorised to enter into an inter-authority agreement, relating to land at Roeshot and being the subject of planning permission 16/00846, delegating such enforcement powers, as he deems appropriate, to Christchurch Borough Council.

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Papers: Annex 1 – SANG plan
Annex 2 - Decision Notice 16/00846 - 20 March 2017
Annex 3 - Roeshot & Burton SANG Delivery Strategy – July 2017

Equality Impact Assessment: No issues arising