

Addendum to Report DRR19/053: Provision of Housing at West Wickham Library and Station Road Car Park, West Wickham

Additional Legal Considerations

1.1 Further to paragraph 10.7, the following considerations should be noted:

- In coming to the decision that the various parcels of land are no longer required for the purpose for which they are held, the Council must consider the public need within the area for the existing use.
- The Council's decision could not be challenged unless it is made in bad faith or if it is a decision that no authority acting reasonably in the exercise of its decision could possibly have taken. There is judicial authority that the local authority was the sole judge of whether land used as a municipal aerodrome was no longer needed and should be appropriated for housing.
- There is no statutory requirement to advertise or consult on a proposal or decision to appropriate land used under the general power in section 122 of the Local Government Act 1972 unless the appropriation relates to special categories of land (for example, common or allotment land).

1.2 Further to paragraph 10.9, the following considerations should be notes:

Privately owned land

- The land lying to the east of Station Road, West Wickham. This area is subject to restrictive covenants in a deed of conveyance dated 4 October 1928. This deed was not lodged in the land registry and neither is the original deed nor a certified copy available. A compulsory purchase order will not override restrictive covenants. Therefore, a restrictive covenant indemnity policy should be obtained.
- 115 Station Road. There are no restrictive covenants. There is a building on the land known as Gainsford House. A lease of the ground, first and second floors was granted for a term which expired on 26 July 2005. A lease of the ground floor only was granted for a term which expired on 24 March 2015. Only if the Council intends to acquire the property, as a last resort compulsory acquisition can be used including the interests of any leaseholders in occupation.

Council-owned land

- Land lying to the east of Station Road. A deed of conveyance dated 15 August 1960 contains a restrictive covenant in favour of the Rank Organisation not to carry on any business in the names of Rank, Gaumont or Odeon or use such names in any of its letters or publications which does not apply. Evidently, this does not apply in this circumstance.
- West Wickham library, Glebe Way. There are no restrictive covenants. There is a lease granted to Greenwich Leisure Limited which operates the library services for the Council. The lease has a break clause to enable the Council to terminate the lease before the end of the term in the event of redevelopment.