

## Agenda Item 23

**Cabinet**

**11 July 2012**

**KIS**



### **Seaton, Windsor Gardens Access Road**

#### **Exempt Information**

Para 3 Schedule 12A information relating to the finance or business affairs of any particular person

#### **Summary**

EDDC have been approached by a developer and asked if they could form an access from Cross Street, over Windsor Gardens for 12 months to service their new building site. On completion the developer would completely reconstruct the existing boundary wall at their expense. We believe EDDC and the developer jointly own the wall. The developer would also make good the fenced area and carry out agreed enhancement landscaping to Windsor Gardens.

#### **Recommendation**

**That Cabinet agree in principal to this work being carried out.**

**That Cabinet agree to Streetscene negotiating with the developer, liaising with local members and monitoring and agreeing the final enhancement works.**

#### **a) Reasons for Recommendation**

To achieve a long term improvement to Windsor Gardens through partnership working with the developer.

#### **b) Alternative Options**

Do nothing

#### **c) Risk Considerations**

There is currently a discussion about the ownership of the walls between Windsor Gardens and the new development. At the moment ownership is shared. If we do not give them access EDDC will have on going costs for the wall maintenance. The boundary retaining wall is of considerable size and will require maintenance or rebuilding in the future. The developer is offering to completely rebuild the wall at their expense, which would minimise any future maintenance cost for EDDC. If we decide not to do this future maintenance costs could be increased.

There may be some public dissatisfaction with closing a section of Windsor Gardens for 1 year.

#### **d) Policy and Budgetary Considerations**

No budgetary implications except officer time. This would help us to maintain an outstanding environment whilst reducing cost to EDDC.

## e) Date for Review of Decision

-

---

### 1 Main Body of the Report

- 1.1 Windsor Gardens is owned and maintained by EDDC. The garden is made up of flower beds, a rose bed, paving slab footways, grass areas, a shelter, column lighting, seats and litter bins.
  - 1.2 Although the beds are well maintained, the footways and other parts of the infrastructure are starting to look tired and will shortly require money to be spent on them to bring them up to a reasonable standard.
  - 1.3 EDDC have been approached by Milkbere Property Ltd, through John Broom Associates, regarding the condition of the wall between Windsor Gardens and their development land and their proposed development of their land. See Appendix A.
  - 1.4 The current situation with the boundary wall is that it used to form part of the old Cinema but its ownership is unknown. Following a site visit in February it is currently thought that it is jointly owned. The walls have been structurally assessed by Brody Forbes Partnership on behalf of John Broom Associates who recommend that they be strengthened and supported or rebuilt.
  - 1.5 Milkbere Property Ltd have put forward the following proposal to EDDC. If they are granted access over Windsor gardens, as set out in the Layout Sketch hatched in green in Appendix B, for 12 months to develop their site they will rebuild the boundary wall to current standards, reinstate the gardens and carry out enhancement works negotiated prior to the start of the work at no cost to this council.
- 

### Legal Implications

Subject to a formal Licence for access and to carry out works being negotiated by the Estates Surveyors with the advice of Legal Services there are no other legal implications on which to comment.

Any Licence agreement should include clauses that all costs are borne by the developer to include substantive works, all health and safety implications and signage, hours of work etc, and to include the Council's reasonable Legal Costs.

### Financial Implications

The financial implications are covered in the report. Any future maintenance costs of the wall if this recommendation is not approved could be substantial.

### Consultation on Reports to the Executive

-

### Background Papers

- Appendix A – John Broom Letter 21 February 2012
  - Appendix B – Seaton Windsor Gardens Layout
-