



**CABINET REPORT**

<b>Report Title</b>	<b>Disposal of land at Lancaster Way</b>
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**AGENDA STATUS: PUBLIC**

<b>Cabinet Meeting Date:</b>	6 <sup>th</sup> December 2017
<b>Key Decision:</b>	Yes
<b>Within Policy:</b>	Yes
<b>Policy Document:</b>	No
<b>Directorate:</b>	Regeneration, Enterprise and Planning
<b>Accountable Cabinet Member:</b>	Cllr Tim Hadland
<b>Ward(s)</b>	Delapre

**1. Purpose**

- 1.1 The purpose of this report is for Cabinet to consider objections received in response to the advertisement of the proposed disposal of public open space at Lancaster Way in accordance with section 123 (2A) of the Local Government Act 1972.

**2. Recommendations**

2.1 That Cabinet:

- (i) Considers the objections received in response to the statutory advertisement of the proposed disposal of public open space at Lancaster Way as shown coloured red on the Plan attached at Appendix 1.
- (ii) Approves the disposal of the public open space at Lancaster Way as detailed within the previous report considered by Cabinet on 21 June 2017.
- (iii) Delegate to the Director of Regeneration, Enterprise and Planning, in consultation with the Chief finance Officer and the Cabinet Member for Regeneration Enterprise and Planning, authority to conclude terms of the disposal of the public open space.

### **3. Issues and Choices**

#### **3.1 Report Background**

- 3.1.1 Further to the review of the Cabinet Paper from the meeting of Wednesday 13 September 2017, the further consultation work has been undertaken as required and is outlined below:
- 3.1.2 The disposal of this land will enable the development of 139 homes, as the land forms the primary vehicular access point to the proposed adjacent residential development site. Planning permission for the residential development will be granted following completion of a Section 106 Agreement.
- 3.1.3 Following the advertisement of the proposed disposal of the land 21 representations were received, all of which were objections to the proposed disposal.
- 3.1.4 On 13 September 2017 Cabinet resolved to defer consideration of the objections received by the Council in response to the statutory consultation on the proposed disposal of the open space due to “outstanding unresolved concerns with the non-adoption of public open spaces and access for pedestrians and cycles.”
- 3.1.5 Following consultation with relevant officers it has been concluded that the Section 106 Agreement includes robust planning obligations to ensure the open spaces within the residential site layout are maintained in accordance with a management strategy approved by the Council and that they are made available for public use in perpetuity. This approach is consistent with the Council’s policy to require a developer to secure the maintenance of new open spaces as contained in the Council’s Supplementary Planning Document – Planning Obligations Strategy.
- 3.1.6 The Section 106 Agreement also secures the provision of two areas of open space on either side of the estate road, immediately adjacent to the site entrance/the existing public open space with a combined area of 2,194 square metres which mitigates the loss of the existing public open space both in terms of quantum and proximity to the existing public open space. The existing green space provision is currently 1,270 square metres.
- 3.1.7 A review of the access arrangements has been undertaken and concluded that the residential site layout provides a comprehensive solution for pedestrians and cyclists.

#### **3.2 Issues**

- 3.2.1 The Council owns the freehold interest shown in appendix 1. The area is currently used as open space. Section 123 (A) of the Local Government Act 1972, requires that objections to the proposed disposal of open space be considered before any decision to dispose is taken. That being the case, the objections put forward in representations can be summarised as follows:
- 3.2.2 Community space objections

- The community lose a valuable green space.
- This is the only local green space for Buckingham Fields, which local residents pay the Council to maintain.
- The local residents should have been given the chance to take on this green space.
- The green space is the only reasonable sized space on the estate for young people to meet, play, enjoy.
- After the green space is sold, the Council have no control over how it may be used in future.
- The land will not be looked after or maintained.
- There are plans for further enhancements of the open space as a recreation facility.
- The Council could pass the maintenance responsibility across to the residents.
- The residents are interested in acquiring all or part of the land being offered.
- The land is of immense value to the community.

### 3.2.3 Officer observations

3.2.4 The green space is a 1,270 sqm site sitting next houses and represents a wide grassy verge at the edge of the adopted highway. The Council currently maintains the land within existing ground maintenance contracts. The land is proposed to be used to provide as an access road to a new housing development, as such will no longer be a green space requiring maintenance from the Council. It is possible that the remaining verge, following the junction construction and adoption of the highway, falls back into NBC maintenance responsibility. This is subject to discussions with Northamptonshire County Council. Although it is possible that a small saving will be derived from the Council no longer maintaining this land in its entirety, the saving is likely to be negligible.

3.2.5 The proposed housing development adjacent to the land will provide a higher quality open space provision that will serve the local residents

### 3.2.6 Planning and highway objections

- If the Council originally insisted on this green space being built on, why is this now being seen fit to sell off?
- There does not seem to be accountability or engagement with the community.
- The individuals the Council is proposing to sell the land to have failed to attain an interest in all the land needed for the current planning permission, despite trying for 10 years.
- Not all of the land put forward for disposal is required for the current planning application. These parts of land should also be removed from the sale as it's not the objective of the Council to sell this land for the use of ransom strips to other land.
- The design for the access has been declined by NCC Highways until permission for development has been granted.

- Alternative and better access is available already at Leah Bank on the Sandringham Gardens development.
- A roundabout is not the best solution for the junction.

### 3.2.7 Officer observations

3.2.8 The merits of the planning application have been considered by the Council as the Local Planning Authority and the Council has resolved to approve the application in principle subject to the prior completion of a Section 106 Agreement to secure a number of planning obligations. This report is to consider the representations to the disposal of the open space.

### 3.2.9 Commercial objections

- Why hasn't there been any opportunity for the residents to purchase the land?
- The land is protected by a covenant confirming its use to public open space.
- Why is the purchaser and price being kept secret?
- As long as the Council own the land and do not agree to sell it, they have leverage over the entire application and applicants. The Council could use this leverage for the benefit of existing and future residents and for their own future benefit.
- The people being offered the land, vandalised Council property, trespassed to gain access and cause further damage to other property.
- NBC should have looked at and shown the financial standing of the bidder, the economic viability of any scheme and the likelihood of not being completed on time.
- The proposed sale, with no substantial conditions, is worse than the previous one and leaves local people in the same limbo they have suffered for 10 years.
- There is no urgency to sell the piece of land due to the land beyond not having any development progress at present.
- The land is protected by covenant restricting its use.
- NBC should remove the eastern section of land from the sale to Xcite Projects Ltd.

### 3.2.10 Officer observations

3.2.11 An offer from Xcite Projects Ltd was received by the Council. Officers then commissioned an independent red book valuation which determined the offer represented best value. The land is only of financial value to the party with an interest in the adjacent land and the proposed development. Sale to another party would only frustrate and ransom the development of the wider site. Officers do not believe this to be in the wider interest of the public.

3.2.12 Xcite Projects Ltd provided commercially confidential information to the Council to inform the valuation and prove the viability of the wider development site. Revealing the offer made on the site would be to release commercially confidential information and would not be in the wider public interest.

### **3.3 Choices (Options)**

- 3.3.1 Option1: Cabinet could choose to consider the public representations to the proposed disposal of the land and authorise the disposal to the owner of the wider development site, subject to planning and agreeable terms. The Council would benefit from a capital receipt for the land and also enable a residential development site which has already obtained planning consent. *This is the recommended option.*
- 3.3.2 Option 2: Cabinet, following consideration of the public representations, could choose to retain ownership of this area of the land. This is likely to impact the development of the wider residential development site. Access will be required into the development, which will need planning permission. The Council would not benefit from a capital receipt.

## **4. Implications (including financial implications)**

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### **4.1.1 Policy**

- 4.1.1 The recommendations within this report do not set policy or have implications on existing policies.

### **4.2 Resources and Risk**

#### **4.2.1 Risks**

- 4.2.2 The land has been independently valued and this indicates that best value can reasonably be demonstrated in this case.

#### **4.2.3 Resources**

- 4.2.4 The land has been independently valued and this indicates that best value can reasonably be demonstrated in this case.

### **4.3 Legal**

- 4.3.1 The proposed disposal of public open space has been advertised in accordance with the requirements of Section 123 (2A) of the Local Government Act 1972 and as noted above objections have been received and are accordingly referred to Cabinet for consideration.

### **4.4 Equality and Health**

- 4.4.1 There are no equality or health issues arising from this report.

### **4.5 Consultees (Internal and External)**

- 4.5.1 The Parks Service, Property, Legal and Finance have been consulted on the proposed disposal. The proposed disposal was advertised, as required.

### **4.6 How the Proposals deliver Priority Outcomes**

- 4.6.1 The proposals contained in this report will increase capital income to the Council assisting in the delivery of priority outcomes.

## **4.7 Other Implications**

4.7.1 None

## **5. Background Papers**

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