

CABINET

31 May 2006

DISPOSAL OF RECREATIONAL LAND AT MEADOWSIDE, WHITELEY

REPORT OF DIRECTORS OF DEVELOPMENT AND COMMUNITIES

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RECENT REFERENCES:

CAB1244 – 22 March 2006

EXECUTIVE SUMMARY:

The report invites the Cabinet to consider further the County Council's proposal that a new primary school to serve Whiteley be constructed on recreation land behind the Meadowside Centre. It suggests that, in the absence of other options, the County Council's proposal is the only mechanism by which a school can be provided in the short term. It sets out a number of proposed conditions the purpose of which is to ensure that, as far as reasonably possible, assurances given to the community by the County Council are secured. The City Council can consider the outcome of discussions on these points in making the final decision as whether to proceed, and if so, the final nature of the conditions to be imposed.

As a decision to dispose of recreational land protected in the Local Plan Review represents a substantial departure from policy a decision on whether to proceed with transfer can only be taken by full Council.

Although the County Council had previously undertaken a public consultation exercise on its proposal for a school, if the City Council wants to pursue the matter it will also be necessary for this Council undertake a statutory consultation process. This involves giving public notice of an intention to appropriate the land for planning purposes and its subsequent disposal to allow the school to be provided. A final decision on whether to proceed can only be taken after any objections received have been considered.

RECOMMENDATIONS:

1. That Cabinet indicates its support for the principle of disposing of land at Meadowside Recreation Ground for the provision of a new school by Hampshire County Council, subject to the consideration of any objections received following the statutory advertisements referred to in recommendation 2 below and the County Council's response to the proposed conditions set out in recommendation 3 below.
2. That the City Secretary and Solicitor be authorised to advertise the proposed appropriation of the open space land shown on the plan in Appendix 2 from S 19 Local Government (Miscellaneous Provisions) Act 1976 (recreational land) to planning purposes (Part IX) Town and Country Planning Act 1990 and its proposed subsequent disposal to enable the provision of the new school on the site.
3. That the County Council be asked to confirm that the following conditions can be met before any transfer of land takes place:
 - that the County Council obtains planning consent for the school and its ancillary facilities;
 - that the County Council obtains planning consent for the replacement of all the recreational facilities which are affected by the proposal;
 - that mitigation land be provided at the County Council's Leafy Lane site over and above the open space standard required for any residential development subsequently approved for that site;
 - that the County Council agrees to purchase the land at best consideration (taking into account the re-provision and improvement of the open space and other facilities) as determined by the Chief Estates Officer;
 - that the County Council provides a full indemnity against all costs and compensation arising from the breach of covenants on the recreational land and all of the City Council's costs arising from the project including all legal work, temporary relocation of team sports, and any loss of income at the Meadowside Centre caused by the construction process;
 - that the County Council obtains all other necessary consents and agreements and confirms that these are in place;
 - that funding for the provision and operation of the new school is confirmed as being available immediately prior to transfer and the transfer contains suitable provisions to be determined by the Chief Estates Officer to protect its position if the school is not built by a certain date;
 - that the County Council enters into a legal agreement with the City Council which guarantees the provision of replacement facilities to the appropriate standard and on a schedule to be settled by the Director of Communities having regard to the needs of facility users
 - that the Diocese of Portsmouth/County Council be required to bring forward their proposals to secure effective arrangements for community use of the school premises.

4. That the County Council be invited to commence work to demonstrate the conditions set out above can be met.
5. That Cabinet notes that the development of recreational land at Meadowside would represent a departure from the Council's approved Local Plan policies;
6. That a report be made to a special meeting of Cabinet on 10 July to consider the outcome of the statutory public consultation process and any response from the County Council/Diocese to the proposed conditions outlined above, with the decision on whether to dispose of the land to be taken at the meeting of the Council on 19 July.

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Report of Directors of Development and Communities

DETAIL:

1 Introduction

- 1.1 The Cabinet in March received a report concerning the Hampshire County Council's proposal to provide a second primary school in Whiteley.
- 1.2 The County had undertaken a site review and held a public meeting and had come to the conclusion that recreational land owned by the City Council behind the Meadowside Centre was the only one suitable for development if the tight timetable dictated by the Government's funding regime was to be met. This proposal would require the reprovision at County Council expense of tennis courts, skateboarding facilities, sports pitches, childrens' play area and informal open space.
- 1.3 At that meeting Cabinet concluded that although the principle of providing an additional primary school in Whiteley was firmly supported, there was a need for the County Council to undertake further research on alternatives before the City Council could consider disposing of the land. The disposal of land is strongly opposed by Whiteley Parish Council, local sports clubs and a section of the community.

2 Recent Events

- 2.1 Since the March Cabinet meeting, meetings have been held with both officers and Members of the County Council to examine the potential for alternative sites or options to deliver the school and still meet the concerns of different interest groups.
- 2.2 The local community, particularly the Parish Council and others representing young people and sports groups, are particularly concerned over the loss of recreational land. The physical reduction of the space and the impact of development on playing seasons have both been discussed. The County Council has confirmed the statement made at the Cabinet meeting to the effect that there would only be a net reduction of 5% in the overall area of the recreational land. Furthermore, the County Council states that the development would not compromise the sports pitches in any way. However, this calculation is based on bringing into formal pitch use land which is already informal open space. The City Council should therefore require mitigation for all of the informal land which has to be converted to formal purposes as this is the loss of space to the community, not the net figure of 5% quoted by the County Council. This can be provided by the County Council at Leafy Lane and will be over and above the open space which would be required to serve any residential development approved at Leafy Lane. The result will be a reduction in the capital receipt for the County Council at Leafy Lane as the area for residential development will be reduced proportionately.
- 2.3 The County Council has reviewed the options for using an alternative site. Although a number of possibilities had been considered before Meadowside had been identified, the site to the north of Whiteley, which had emerged during the recent discussions, was seen as having the best potential. Further investigations have been undertaken and obvious problems with the

lack of infrastructure and timing of the potential development raised. However it has now been confirmed that the Diocese of Portsmouth who are the applicants for and recipients of the DfES funding, will not pursue a school development on this North Whiteley site. A letter to this effect has been received and is reproduced as Appendix 1. This effectively takes out this site from the reckoning for the development of a primary school in the short to medium term. The consequence of all these discussions and research is that the Meadowside site is the only one that could possibly host a primary school in the timescales envisaged by the County Council.

- 2.4 If the County Council is to use the Meadowside land then a number of preconditions have to be met. A major issue is obtaining planning consent. The policy issues arising from this are discussed below. Another major consideration is the consideration of any public comments upon the appropriation of the land from open space to planning purposes by the City Council and its subsequent disposal to enable the school to be built. The advertisement has to be placed in a local newspaper for two successive weeks and any objections received given consideration before a final decision is made. The land is subject to a covenant restricting its use to recreational purposes which the County Council would require the City Council to override using relevant legislation in S 237 Town and Country Planning Act 1990. This is achieved by the appropriation to planning purposes. However, compensation would be payable and the City Council would require a full indemnity. The City Council would have to include a mechanism in the transfer to protect its position if the school is not built e.g. a right of pre-emption so that the City Council can re-purchase if the school is not provided by a certain date. The exact mechanism will require discussion with the County Council. The County Council also requires agreement from the landowner regarding access to the school site which would be via the same road which serves the Meadowside Centre. This will be a matter for the County to negotiate. The City Council would also require significant protection for sports pitch users to ensure that the assertions made regarding the quality and re-provision of facilities are confirmed. In particular it is suggested that no transfer takes place until planning consent and funding for all of the replacement recreational facilities is confirmed, thus reducing the possibility that whilst the school is delivered, other facilities are not.
- 2.5 The County Council has promised that there would be significant community use of any new school and it would be appropriate to invite the County Council and Diocese to indicate how this would be achieved in practice.
- 2.6 As yet there is no certainty over when a new school would be operational or any temporary places provided but neither seems likely before September 2007.

3 Policy Issues

- 3.1 Cabinet will be aware that there are significant concerns within the Whiteley community which have emerged since this proposal was put forward. The public response placed before Cabinet on the last occasion the matter was discussed showed the community evenly split. The Parish Council is strongly opposed to the proposal as are local sports clubs. However, there is broad agreement that the provision of a new school is a vital community amenity which needs to be secured.
- 3.2 The area of recreational land on which the County Council proposes to build is recreational land protected by the City Council's Local Plan Policies RT1 and RT2. The Whiteley playing fields are specifically designated as being protected under these policies. RT 1 is aimed at protecting the visual amenity of open areas and resists the development of buildings and hard surfaced areas unless they are ancillary to the main use, well related to existing buildings and maintain the contribution of the open area to the character of the wider area. RT 2 is aimed at protecting the recreational value of open spaces and resists development which would reduce the recreational value of open spaces. Only ancillary buildings/hard surfaced areas will be

permitted, provided the recreational value of the land is maintained or replacement provision of at least equal value is made. The County Council will determine any planning application itself and will consult the City Council on the application. The application will be controversial and therefore referred to Planning Development Control Committee for consideration which will be advised by the Head of Planning Control whether to raise a formal objection. There is a possibility that the application will be called in by the Government Office. By agreeing to support the principle of disposal Cabinet would be stating its support for a departure from one of the Council's significant planning policies. For this reason the City Secretary and Solicitor advises that a final decision can only be taken by Council.

- 3.3 The City Council will have to consider the following factors in determining whether to approve the appropriation of the land from open space to planning purposes and its subsequent disposal:
- (a) whether in its view the land is no longer needed for open space purposes – it can take into account both any improvements arising from the proposed works to the pitches and other facilities together with any proposals for re-provision.
 - (b) whether the proposed new use as a school site is needed for the proper planning of the area and any mechanisms included in the terms of the disposal to achieve this outcome.
- 3.4 The City Council should protect its financial position and dispose of the site at best consideration to ensure it can withstand any challenge over value for money. However, re-provision/improvement works would be relevant in determining best consideration.

4 Conclusions

- 4.1 At its March meeting Cabinet resolved that it would agree to reconsider the disposal of land at Meadowside Recreation Ground if the County Council brought forward an acceptable alternative proposal. The County Council has reviewed its plans, reconsidered what they might be able to do to help mitigate the impact on the City Council's recreation facilities but has concluded that the use of the Meadowside land is the only option. This has been subsequently reinforced by the Diocese decision which negates the possible use of the site to the north of Meadowside.
- 4.2 As some of the elements of the City Council's objections have been made clearer, the matter of planning policy conflicts remain. However, Cabinet may feel that the balance of advantage to the community is served by the provision of the new school and the reassurances given by the County Council that they will incur whatever expenditure is necessary to ensure that sports provision is not only maintained but enhanced.

OTHER CONSIDERATIONS:

3 CORPORATE STRATEGY (RELEVANCE TO):

- 3.1 The Council has a Corporate Strategy objective to work in partnership "to deliver real improvements to peoples quality of life". The provision of a new school by the County Council will meet this objective provided that the quality and nature of other recreational facilities is preserved as is anticipated.

4 RESOURCE IMPLICATIONS:

- 4.1 There are no direct resource implications arising from this report as all expenditure is to be met directly or indirectly by the County Council. There will be a significant requirement for City

Council officer time to be spent on negotiations and community consultation which will reduce the resources available for other projects.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Appendix 1 Letter from the Diocese of Portsmouth

Appendix 2 Plan showing extent of land for proposed school site and land for appropriation/disposal