



22 April 2013

Agenda Item: 7(j)

**REPORT OF SERVICE DIRECTOR TRANSPORT, PROPERTY &
ENVIRONMENT**

**PROPOSED LICENCE OF LAND AT BROOMHILL FARM, NOTTINGHAM
ROAD, HUCKNALL.**

Purpose of the Report

1. To seek approval to enter in to a temporary licence agreement with the developer of Broomhill Farm Phase 1 to allow the creation of Public Open Space (POS) connected to the entire site development.

Information and Advice

2. Some information relating to this report is not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972. Having regard to the circumstances, on balance the public interest in disclosing the information does not outweigh the reason for exemption because divulging the information would significantly damage the Council's commercial position. The exempt information is set out in the exempt annex.
3. At its meeting on 12th November 2012, Finance and Property Committee approved the sale of Phase 1 of the Broomhill Farm residential development site to Bellway Homes Limited. The Phase 1 site is 5.1 Ha (12.5 acres) and shown shaded in light grey on the plan attached to the report. Bellway propose the development of approximately 142 housing units on the site.
4. The allocated residential land at Broomhill Farm totals c.12.5 Ha (31 acres) and the marketing of the Phase 2 land (shown shaded in dark grey on the plan) is anticipated to take place during the 2014/15 financial year. The site is scheduled for disposal in two phases with the objective of producing developable parcels of a size most conducive to the maximisation of sale proceeds. Phase 2 will be brought forward once the Phase 1 infrastructure is created.
5. Residential development of the site is supported in policy terms by the local planning authority (Ashfield District Council). The Planning Authority Development Brief for the site requires the provision of 10% Public Open Space (POS) in the overall development of the site.

6. The Planning Authority consider that, in this case, developers be directed to supply the POS requirement in the form of playing fields / sports pitches. Despite lengthy negotiation with the Planning Authority by the Developer, the Authority is insistent that these must be located adjacent to an existing Ashfield owned playing field off Lime Tree Road. This prevents the Developer from creating the 10% requirement within the Phase 1 site.
7. The “allocated” POS land (10% of the gross developable area) is the land labelled “a” and “b” on the plan.
8. The Planning Authority further requires that the POS provision is made on a *pro rata* basis between the first and second phase applications, rather than allowing the provision to be provided in full as part of the future Phase 2 application. This means that the land annotated “b” will need to be allocated as part of the Phase 1 planning application, whilst the anticipated POS allocation sufficient to serve Phase 2 is shown annotated “a” on the plan.
9. The freehold of the land annotated “b” will be retained by the County Council in the short term, with the developer (Bellway) being allowed occupation under licence to create the POS following grant of planning permission. Bellway will be responsible for this area until such time as the land is vested in Ashfield District Council.
10. The approved Heads of Terms for the Phase 1 sale allow the Developer to make deductions from the agreed sale price for abnormal costs. Examples of abnormal costs are found in the addendum below. In order to mitigate the effect of these on the net sale price, agreement has been reached on a minimum land price. This is detailed in the exempt appendix to the report. Any deduction will be subject to approval by the NCC appointed engineers BWB Consulting.

Other Options Considered

11. Given the stance on the local planning authority to the provision of POS, there are realistically no other options available if planning consent is to be secured. The possibility of the developer making a commuted cash sum payment in lieu of the POS works was explored, but rejected by the local planning authority.

Reason/s for Recommendation/s

12. To accord with the Authority’s approved Capital Receipts Programme.

Statutory and Policy Implications

13. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and

those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION/S

That Committee approves

1. The grant of a temporary licence agreement to the developer of Broomhill Farm Phase 1 to allow the creation of Public Open Space (POS) connected to the entire site development.
2. The minimum land price as detailed in the exempt appendix.

Jas Hundal
Service Director, Transport, Property and Environment

For any enquiries about this report please contact: Tim Slater 0115 9772076

Constitutional Comments (SSR 10.4.2013)

14. This decision falls within the scope of decisions that may be approved by the Finance & Property Committee. Under S123 of the Local Government Act, 1972 the Council is required to obtain the best price reasonably obtainable for the disposal of its land, failing which it must comply with the General Disposal Consent Order.

Financial Comments (TR 11.4.2013)

15. The financial implications are set out in the report and in the exempt appendix.

Background Papers

16. Finance and Property Report 12 November 2012.

Electoral Division(s) and Member(s) Affected

Ward(s): Hucknall

Member(s): Councillor Mick Murphy, Councillor Reverend Tom Irvine, Councillor Kevin Rostance

Addendum – Abnormal Costs

Abnormal costs are sometimes incurred by a developer due to unforeseen circumstances during development. Being unforeseen, they are not quantifiable at the time the initial offer for the land is made.

Offers made by developers are on the assumption that no abnormal costs will arise. It is however necessary to build a mechanism into the sale contract so that abnormal costs may be deducted from the final sale figure should they arise.

Examples of abnormal costs include:

- **Archaeology**

Intrusive archaeological investigations may be imposed if significant archaeological features are discovered.

- **Flood defence works**

This generally involves raising floor levels above flood level, if required.

- **Vehicle access works**

The proposed new road junction and s278 works are already allowed for in this case, however, if other major off-site highway works are imposed then these will be abnormal costs.

- **Land contamination**

If land is found to be contaminated then additional costs will be incurred in the remediation, or removal from site, of isolated areas of contaminated spoil.

- **Ground stability**

Offers made assume that buildings will require standard foundations. However, if it is found, for example, that raft foundations or piling are necessary then there will be additional abnormal costs.

- **Utilities networks**

The majority of sites connect into existing utilities within the adjacent public highway. If these existing utilities require reinforcement or upgrading then there will be additional abnormal costs for this work.

- **Other abnormal costs**

Environmental works or ecology e.g relocation or protection of rare species.

Following negotiation with Bellway Homes, a minimum value has been tentatively agreed. This is on the basis that all abnormal costs are “open book”, i.e. reasonable, necessary, priced competitively and able to withstand scrutiny by our appointed Engineers BWB failing which they may be declined. The examples above are typically occurring and this is not an exhaustive list.

