

PAPER NO. 8

REPORT TO THE EXECUTIVE MEETING OF 11 JANUARY 2016

Meeting: Executive

Date: 11 January 2016

Subject: Request from Davidsons Developments Ltd. for Harborough District Council to acquire a balancing pond

Report of: Mark Perris

Portfolio Holder: Councillor Phillip King; Financial & Commercialisation

Status: Decision

Relevant Ward(s): Lutterworth - Swift

1. Purpose of the Report

1.1. To consider the request from Davidsons Developments Ltd for the District Council to acquire the balancing pond at Leicester Road, Lutterworth.

2. Recommendations:

2.1. **That the Executive agrees not to pursue the land acquisition as requested by Davidsons Developments Ltd.**

3. Summary of Reasons for the Recommendations

3.1. To avoid further burden to the Council's budget.

4. Key Facts

4.1. Davidsons have requested that Harborough District Council acquire the balancing pond at Leicester Road, Lutterworth associated with the development.

4.2. There are no s. 106 obligations relating to the land, and as such, there was no obligation either at the completion of the development or now to "acquire" the land.

4.3. In the event that the District Council agreed to consider a transfer of the land, there are a number of factors to consider;

a. The developer may pursue a consideration for the land in the event of a transfer, although given that they have approached the Council this is less likely;

- b. The developer may resist the provision of a commuted sum for the ongoing maintenance of the land, although given that they have approached the Council this is less likely. Notwithstanding the provision of a commuted sum, this would only be for a specific number of years and therefore, at some future date the Council would need to fund the works from its own resources;
- c. The balancing pond forms part of the flood defences, and as such, ongoing maintenance is important, there are two options to address this aspect;
 - i. By acquiring the land the Council would have direct control and could ensure that the facility is maintained to the appropriate standard; or
 - ii. The preferred approach would be to add the facility to the inspection regime already in place and in the event of any maintenance issues, work with the Local Lead Flood Authority, Leicestershire County Council, to take appropriate action to remedy the situation.

As such, there could be a cost to the District Council in terms of ongoing Revenue, and possibly Capital. Typical costs for scheduled maintenance to dry and wet balancing areas can be between £15,000 and £30,000 respectively over a period of 15 years, based on 500m² pond area. In addition to scheduled maintenance, it may be necessary over a longer period of time for capital work to be carried out on associated structures or de-silting of the area.

4.4. Options

- a. To accede to the request from Davidsons Developments Ltd, and seek to negotiate a transfer of the land, subject to Council approval. This would require a budget to be created for the ongoing maintenance, and in the current financial climate this would have implications
- b. To advise Davidsons Developments Ltd that the District Council does not wish to pursue an acquisition due to the potential cost implications.

5 Legal Issues

- 5.1 In the event that the Council wished to pursue an acquisition, the recommendation would need to be referred to Council for a decision. There would be a requirement for legal work to complete the transfer.

6 Resource Issues

- 6.1 There are potential financial implications for the Council if it pursued an acquisition.

7 Equality Analysis Implications/Outcomes

7.1 No specific implications arising as a result of this report.

8 Risk Management Implications

8.1 The main risk is associated with the financial implications of pursuing an acquisition.

9 Consultation

9.1 The ward members have been made aware.

10 Options

10.1 The options are outlined in 4.5 above.

11 Background Papers

11.1 None.

Previous report(s): None

Information Issued Under Sensitive Issue Procedure: No

Ward Members Notified: Yes

Appendices:

Appendix A - Plan