

**PAPER NO. 3**

**REPORT TO THE EXECUTIVE MEETING OF 9 MAY 2016**

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**Meeting:** Executive

**Date:** 9 May 2016

**Subject:** Offer from William Davis for Harborough District Council to acquire public open space in Broughton Astley

**Report of:** Mark Perris

**Portfolio Holder:** Councillor Phillip King; Financial & Commercialisation

**Status:** Decision

**Relevant Ward(s):** Broughton Astley – Primethorpe

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1. Purpose of the Report

1.1. To consider the offer from William Davis for the District Council to acquire public open space at Coventry Road, Broughton Astley.

2. Recommendations:

2.1. **That the Executive agrees not to pursue the land acquisition as offered by William Davis**

3. Summary of Reasons for the Recommendations

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

3.2. To accept William Davis's preference for the land to be retained and managed by a management committee

4. Key Facts

4.1. William Davis in accordance with the provisions included within the s. 106 agreement dated 19 May 2015 have served notice offering the option that Harborough District Council acquire the public open space at Coventry Road, Broughton Astley associated with the development.

4.2. As outlined above, there is a s. 106 agreement relating to the land, however, there is no obligation for the District Council to "acquire" the land. The original S106 included public open space and the balancing pool within the site. The approach from William Davis excludes the balance pool and hence the value of any sum from the s. 106 payment would be proportionately reduced. On

this basis the S106 sum appears insufficient to warrant the District Council adopting the land under this option.

- 4.3. The s. 106 agreement includes a 6 month period from the “Date of the Agreement (19 May 2015)”, for the Council to respond to an offer to acquire the land. However, 6 months from this date had passed by the date of the Notice. It has been agreed by both parties, that the intention was to respond to the offer within 6 months of the date of the Notice.
- 4.4. In the event that the District Council agreed to consider a transfer of the land, there are a number of factors to consider;
  - a. If the land were transferred, the commuted sum for maintenance would be £386,968.32 plus BCIS All in Tender Price Index uplift from the date of planning permission, 19 May 2015, to the date of transfer uplifts as identified in the s.106 agreement dated 19 May 2015. The land extends to a total area of approx. 0.980ha (note: Comment in paragraph 4.2)

As such, there could be a cost to the District Council in terms of ongoing Revenue post year 15, and possibly future capital expenditure.

- 4.5. William Davis has expressed a preference for the land to be retained and managed by a management company.
- 4.6. Options
  - a. To accede to the request from William Davis, 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, albeit a commuted sum of £386,968.32 plus RPI uplift would be received covering a 15 year period.
  - b. To advise William Davis that the District Council does not wish to pursue an acquisition due to the long term 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.
- 5.2 There is a risk, based on the wording within the Section 106 agreement, that if the land is not transferred to Harborough District Council, that the land may not remain as public open space, and there may be difficulties in requiring retention as public open space.

## 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.

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**Previous report(s): None**

**Information Issued Under Sensitive Issue Procedure: No**

**Ward Members Notified: Yes**

**Appendices:**

**Appendix A - Plan**