

# Report

**Report subject:** R2 - Broken Bridges, Lower Bemerton

**Report to:** City Area Committee (Community)

**Date:** 20<sup>th</sup> January 2009

**Author:** Reg Williams, Parks Manager

## 1. Introduction:

- 1.1. This report is circulated as a late, urgent item. It is urgent because there is a proposed land acquisition for which funding is being sought. A number of steps need to be taken before the position is clarified, and third parties are relying on an expeditious outcome.
- 1.2. This report updates members on the proposal from a group of local residents that some of the endowment of the Lower Bemerton Recreation ground be applied to purchasing land for recreational and conservation uses in the Bemerton area: the land to be held and managed by a charity to be set up with trustees from the local community.
- 1.3. This committee felt that the proposal had merit: however, given the fact that the endowment was held on trust, it could only be taken forward if it complied with the purposes of the trust, and officers were required to seek advice from the charity commission. The advice has been that such action is unlikely to be within the terms of the existing trust. The Council is therefore looking for alternative sources of funding.
- 1.4. The Committee will be aware that policy R2 of the Local Plan enables the Authority to collect contributions from developers to provide recreational facilities in the associated area.
- 1.5. The City is generally treated as one area, so in principle monies collected can be used for recreational purposes in any part of the City.
- 1.6. Some legal agreements are more specific, stipulating exactly what the contributions are to be used for, others are more general allowing the monies to be spent in a more flexible manner.
- 1.7. The contributions are collected and held by the Forward Planning Department. Projects are then identified and bought to fruition by the relevant spending Officer, which for recreational purposes in the City is usually the Parks Manager.
- 1.8. There are clear guidelines as to what the R2 contributions can and can't be spent on. Developers contribute the funding on the understanding that it will only be used for purposes described in the policy guidelines.
- 1.9. The contributions can be held for up to 5 years. If they are not committed by that time the developer can, in theory, request a return of his contribution.
- 1.10. The Committee will also be aware that negotiations have been ongoing for some time now with the Charity Commission regarding the release of £75,000 of trust monies to purchase some land in Lower Bemerton . The most recent report was considered on 2nd September, minute 110 refers.

## 2. Background:

- 2.1. As a result of the meeting on the 2<sup>nd</sup> September, the Charity Commission were asked for advice and they referred the matter to their legal advisors. While they make it clear that they cannot advise individual charities they have stated a view (by letter in early January) to the effect that the use of trust fund monies for the purchase of this land would not be in accordance with the aims and objectives of the original trust, which still exist, and for that reason they could not support the request. The Council's legal advisors have looked at this advice and agree with it. Legal approval would be highly unlikely for depleting the funds of the existing charity for another land purchase.

### 3. **Current Position:**

- 3.1. As a result of the Charity Commission's advice, Officers have sought alternative sources of potential funding. Realistically there are 4 options available as follows:
  - 3.1.1. City Reserves - In principle there are sufficient funds within the City reserves to fund this request. However, the Committee will be acutely aware that the reserves already have a committed programme of projects earmarked, as well as being an integral part of the financial base for the new City Council. For these reasons it is strongly advised against using this option at this time
  - 3.1.2. General Fund Reserves - This could be achieved via a request to Cabinet. However, due to pressures on the Council's capital programme, it is considered highly unlikely any request would be successful.
  - 3.1.3. R2 Contributions - The purchase of this land via R2 funding could be considered. To meet the R2 criteria, the proposal must be publicly available and offer new or improved / expanded outdoor recreational facilities. This land could meet these criteria in providing new facilities for the City by way of passive recreation (walking, cycling etc) as well as adult orientated keep fit equipment and angling rights.
  - 3.1.4. Some kind of combination - Whilst feasible, this would be time consuming and less certain at this time.

### 4. **R2 Funding Available (City Area):**

- 4.1. As at mid January, there is a total potentially available of around £465,000. This is based upon monies already collected.
- 4.2. Of this sum, around £155,000 is available to spend now. The balance is covered by projects already committed and monies which are held but cannot yet be released as the developments have not yet commenced.
- 4.3. Based upon the request for £75,000 highlighted at 1.10 above, there is therefore sufficient funds to meet this. However this must be also be considered in light of the other request being considered by the Committee on the agenda.
- 4.4. This would seem the most promising way forwards at this time. However, there will need to be a fully worked up management scheme for the proposed land, and a business case from the charitable body which could manage it as to how the project would work, and offer value for money. There would also need to be a valuation of the land in current market conditions.

### 5. **Recommendations:**

The Committee are requested to:

- 5.1. Confirm, or otherwise, their in principle support for this project and if so,
- 5.2. To confirm in principle that up to £75,000 (or some other sum to be agreed) be utilised from the Planning R2 fund toward the purchase of the land at Lower Bemerton and,
- 5.3. That the monies only be released once all funds required for the purchase are guaranteed, the land value has been confirmed in the light of the recent market downturn, and that the use of the land will be secured by virtue of covenants and legal agreements, and that a body will exist able to manage and support the land over the long term.

### 6. **Background Documents**

Salisbury District Local Plan Adopted 2003 Policy R2

### 7. **Implications:**

- 7.1. Legal - As outlined in the report
- 7.2. Financial - As outlined in the report
- 7.3. Personnel - None at this stage
- 7.4. Environmental - None at this stage though planning consent may be required for certain future aspects of the project
- 7.5. Community Safety - None at this stage
- 7.6. Human Rights - None at this stage
- 7.7. Wards Affected - Fisherton and Bemerton