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Report

Subject : Release of R2 financial contributions for the purchase of land for recreational purposes and the creation of a nature reserve at Broken Bridges, Lower Bemerton

Report to : City Area Committee (Planning)

Date : 24th March 2009

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1. **Purpose of Report**

To update the Committee on the current position regarding the proposal to use R2 developer contributions to purchase land at Broken Bridges, Lower Bemerton for the purposes of creating a recreational area and nature reserve.

2. **Background**

At the City Area (Community) Committee meeting held on 20th January 2009, members considered an urgent report about the proposed purchase of land at Lower Bemerton. The report stated that local residents had sought to use some of the endowment of the Lower Bemerton Recreation ground for this purpose, but the advice of the Charity Commission had been that it was likely to be outside the terms of the existing trust. As an alternative, the use of R2 funds was suggested.

The report explained the limitations on the use of R2 monies, particularly the terms of established guidelines and the wording of individual Section 106 agreements. To meet R2 criteria, the report acknowledged that the land would have to be made publicly available and should contain new, improved or expanded outdoor recreational facilities. It was suggested that the land could meet R2 criteria by providing new facilities for the city in the form of passive recreation (walking and cycling, for example), as well as keep fit equipment for adults and angling rights.

2.3 It was resolved:

1. *the committee support the project in principle;*
2. *the Committee contributes £75k towards the project with the full amount to be released from Developers' Contributions (R2);*
3. *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.

- 2.4 Since the Committee came to its resolution, officers have looked into the planning and legal issues surrounding the proposal. The remainder of this report summarises their findings and the position that has currently been reached.

3. **The current position**

3.1 The policy

Policy R2 of the adopted Salisbury District Local Plan states:

New residential development will be required to make provision for recreational open space (comprising facilities for communal outdoor sport and children's play) in accordance with a standard of 2.43 hectares per 1000 population. Additional amenity open space (including landscaped areas, public gardens and roadside verges) will be sought as appropriate. The Local Planning Authority may consider reducing this requirement where developments comprise accommodation for those with special needs. Further details of the District Council's open space requirements are contained in Appendix IV.

- 3.2 Appendix IV to the local plan sets the standards for the provision of recreational space as follows:

Policy R2 requires recreation open space at a standard of 2.43 hectares per 1000 population to be provided in connection with any residential development. The Council has adopted the recreation standard promoted by the National Playing Fields Association (NPFA) which comprises:

Youth and Adult Use: 1.6 - 1.8 hectares per 1000 population.

Children's Use: 0.2 - 0.3 hectares per 1000 population of equipped children's playgrounds, adventure playgrounds and other specific opportunity play facilities;

and 0.4 - 0.5 hectares per 1000 population of casual or informal play space within housing areas.

Youth and adult sport and recreation space includes facilities such as pitches, courts and other miscellaneous items which, as a matter of policy and practice, are available for public use.

- 3.3 The NPFA 'six acre standard' (2.43 hectares), upon which Policy R2 is based, defines 'playing space' as:

space that is available for sport, active recreation or children's play, which is of suitable size and nature for its intended purpose, and safely accessible and available for the general public.

It continues:

Outdoor playing space is not the same as open space. While the first is an important component of the second, there are other forms of open space outside the definition of outdoor playing space used by the NPFA to define requirements for sport and children's playing space. Examples of types of land which are excluded from these

recommendations [include:]

- Verges, woodlands, commons, ornamental gardens, except for defined sports, games, practice and play areas
- Water used for recreation, except where it forms a play feature of an outdoor play area.

3.4 The guidance notes issued by the District Council to Parish Councils on R2 state that:

*R2 funds are collected to specifically meet local needs for **outdoor** sport and recreation. Children's play areas are the most frequently cited examples, however the following table sets out examples of what R2 **could** be spent on:*

Children	Youth	Adult
<i>Swings and slides</i>	<i>Skateboard parks</i>	<i>Football pitches / goal posts</i>
<i>Activity centres</i>	<i>Basketball courts / hoops</i>	<i>Cricket pitches / score boards</i>
<i>Springers</i>	<i>Rebound walls</i>	<i>Tennis courts / nets</i>
<i>Fencing around recreation grounds and play facilities.</i>		
<i>Land purchase for recreational uses.</i>		

3.5 R2 payments are a type of Section 106 contribution and are subject either to a legal agreement entered into by the Council and the developer, or an unilateral undertaking on the part of a developer. The wording of R2 legal agreements has changed a little over the years, but always contain an undertaking broadly along the lines of the following:

The Owner [of the land upon which development has been permitted] covenants with the Council that on completion of the agreement he will pay to the Council the Total Sum ... towards the cost to the Council of providing improving and/or maintaining adult or children's sport play or recreation facilities or installing and/or maintaining equipment in connection with such facilities on land certified by the Head of Development Services or the Head of Forward Planning & Transportation as being directly relevant to the Proposed Development.

3.6 It will be clear from all of the above that, historically, the criteria employed to consider proposals for the expenditure of R2 funds have been defined quite narrowly, and generally in terms of outdoor playing pitches or equipment. For the present application in respect of Broken Bridges to be compliant with Policy R2 there must therefore be a **clear and significant recreational element** within the proposal.

3.7 The proposal

The applicants have provided the Council with copies of the Certificate of Incorporation of the Broken Bridges Nature Reserve Limited, the Memorandum of Association of Broken Bridges Nature Reserve Trust Limited and the Trust's Management Plan for the site. No other submissions had been made at the time of writing this report.

3.8 The Memorandum of Association states that the Trust's objectives are threefold:

- To promote for the benefit of the public the conservation, protection and improvement of the physical and natural environment [by promoting biological diversity];

- To advance the education of the public in the conservation, protection and improvement of the physical and natural environment; and
- To provide or assist in the provision of facilities in the interests of social welfare for recreation or other time occupation of individuals who have need of such facilities by reason of their youth, age, infirmity or disability, financial hardship or social circumstances with the object of improving their conditions of life.

3.9 Only the third objective has any relevance in the context of the Council's R2 policy. There is nothing else of relevance within the Certificate of Incorporation or the Memorandum of Association. The Management Plan states that the Broken Bridges Nature Reserve will provide, amongst other facilities:

Land for the development of the link across the water meadows as part of the preferred route into Salisbury for National Cycle Network (NCN) route 24. The development of safe walking/cycling links from Wilton through to Alderbury is one of 79 Sustrans 'Connect2' projects from around the country which secured £50 million of lottery funding in early 2008...The Salisbury Connect2 project would like to see sympathetic upgrading of Broken Bridges path to improve pedestrian, cyclist and disabled access, and this would be mutually beneficial in allowing public access to and across the proposed nature reserve.

3.10 The Management Plan goes on:

We propose to lease the river rights to the Salisbury and District Angling Club. We intend to install a fishing platform alongside the main river for children to fish, with lines or nets, under parental supervision. We also intend to facilitate paddling near the ford on Spring Creek.

3.11 The Management Plan also suggests:

A programme of access improvements will be necessary, including the installation of pedestrian access gates, boardwalking and fencing. Significant River and Fishery Enhancement works would also be needed.

3.12 Finally, the Management Plan comments:

The Nature Reserve will provide formal and informal education opportunities within easy access of [local] schools and at minimal cost of transport.

There is also a thriving Scout Group in Harnham who are keen to use the Nature Reserve in a number of ways. And we will develop walks within the site, to improve the physical and mental health of local people, by encouraging them to increase levels of physical activity.

3.13 There are no other references within the Management Plan that suggest any other forms of recreational provision within what is primarily intended to be a nature reserve. It should be noted that water based activities, such as angling and paddling, are specifically excluded from the definition of recreation employed in the context of policy R2.

3.14 It is understood, however, that the intention is to provide other recreational facilities within the site that could be in line with the objectives of policy R2. A meeting between Council officers and representatives of the Broken Bridges Nature Reserve Trust has been arranged for Wednesday 18th March 2009 when it is hoped that further details of the recreational proposals will be given. Officers will then prepare a further report on the

outcome of these discussions, for circulation prior to the Committee's meeting on 24th March. Formal recommendations will be made in that second report.

3.15 Other matters

A detailed examination of the proposal has also identified a number of issues:

- The site is not within the city boundary, but is in Netherhampton. Netherhampton Parish Council does not have the funds to support the proposal. The location of the site is not believed to be significant, but the Southern Area Committee has requested that the matter be referred to its meeting on 26th March 2009, for consideration.
- Use of the land for recreational purposes, sufficient to justify the expenditure of R2 funds, would require planning permission. Any decision on the part of the Committee to release R2 funds would therefore need to be subject to the grant of planning permission for a scheme that complies with normal R2 criteria.
- The site is within Flood Zone 3a (land with a 1 in 100 year or greater probability of river flooding)... A Flood Risk Assessment would be required to be submitted with any planning application.
- The site is affected by the alignment of the proposed Brunel Link. Although the scheme is not included within the programme to 2016, it remains within the South-West regional highway programme.

4. Conclusions

The Council has received a request from the Broken Bridges Nature Reserve Trust for R2 funds to be used for the purchase of land at Broken Bridges, Lower Bemerton. The land is intended to be used for recreational purposes and as a nature reserve.

There are strict criteria governing the use of R2 funds. The Trust must therefore demonstrate clear proposals for a significant level of recreational activity within the site in order to justify the use of R2 funds for the purchase of the land. A meeting is due to take place with representatives of the Trustees to explore this issue. Officers will then prepare a further report, which will make recommendations on the matter.

Planning permission will be required for the recreational use of the land and any decision on the part of the Committee to release R2 funding should be made on the basis that it is subject to the grant of planning permission for a scheme that is compliant with R2 criteria.

The site is outside the city boundary and the Southern Area Committee has asked to be involved formally in the decision making process.

5. Implications:

- **Financial:** As set out in the report.
- **Legal:** As set out in the report.
- **Human Rights:** None at this stage.
- **Personnel:** None at this stage.
- **Community Safety:** None at this stage.
- **Environmental:** None at this stage.
- **Council's Core Values:** Excellent service, Meeting local needs especially those of disadvantaged groups and individuals.
- **Wards Affected:** Netherhampton.