

Report to Portfolio Holder for Resources and Reputation

Subject: Transfer of the freehold interest in open space land at Jumelles Drive & Church Meadow, Calverton

Date: 27 February 2019

Author: Property Surveyor

Wards Affected

Calverton

Purpose

To seek approval for the transfer of the freehold title of two open space areas of land located at Jumelles Drive and Church Meadow Drive, Calverton (the Land), as shown edged red on the plans at Appendix 1 and Appendix 2, from Langridge Homes Limited to the Council.

Key Decision

This is not a Key Decision.

Recommendation(s)

THAT:

- 1) Approval is granted to accept the transfer of the Land as shown outlined in red on plans at Appendix 1 and Appendix 2.**

1 Background

- 1.1** In the 1970's the Langley Mill Building Company-now Langridge Homes, residentially developed land at Church Meadow and Jumelles Drive, Calverton. The planning application was made prior to the introduction of S106 legislation. Within these development sites two areas of public open space were created. Langridge Homes have always maintained that the intention was that the Council should be responsible for the maintenance of the Land which would have been adopted after a 12 month maintenance

period. The Council cannot locate any records to indicate that the Land was formally adopted. However, the Council has been maintaining the Land for over 40 years which would indicate that its intention was to be responsible for its maintenance. In order to regularise this position, Langridge wish to transfer the title to the Council. The Land will be taken as seen and the Council will be responsible for any boundary structures, where appropriate, that are not the responsibility of adjoining owners.

- 1.2 The land at Jumelles Drive is registered with absolute freehold title. The land at Church Meadow, which was previously unregistered, has recently been registered by Langridge's solicitors but only with possessory freehold title, on account of the deeds and documents of title having been lost. Possessory title can be upgraded to absolute freehold title after 12 years. The implications of owning land with possessory freehold title are that it is subject to any restrictive covenants that may have been imposed prior to the registration date and that are still subsisting and capable of taking effect and is at risk of an ownership claim being made during the 12 year period. The risk of this happening or any covenants coming to light, is considered to be low as the Council has in effect been in possession of the land for over 40 years. Indemnity insurance can be put in place to protect against any possible loss arising from land being a possessory title but this is not considered necessary.

2 Proposal

- 2.1 That the Council accept the transfer of freehold title to the open spaces as shown edged red on the plans at Appendix 1 and Appendix 2. The consideration for the Land being £1.

3 Alternative Options

- 3.1 An alternative option could be not to take a transfer of the Land and, in addition, to no longer maintain it. However, this could mean that the Land might not be maintained in accordance with the standards that the Council has upheld for the last 40 years. Although this could create a potential saving to the Council it could potentially damage its reputation if the quality of upkeep suffered.
- 3.2 Another alternative would be for the Council to take a lease of the Land. However, less officer management time will be incurred taking the freehold of the Land compared to having to manage a lease.

4 Financial Implications

- 4.1 Each party will bear their own costs.
- 4.2 As the Council has been maintaining both areas of open space there will be no more costs associated, than currently exist, with obtaining ownership.

5 Appendices

- 5.1 Appendix 1 - Plan showing the open space at Jumelles Drive to be transferred edged red.
- 5.2 Appendix 2 – Plan showing the open space at Church Meadow to be transferred edged red.

6 Background Papers

- 6.1 None identified.

7 Reasons for Recommendations

- 7.1 To regularise the Council's position in respect of maintenance of the Land.