

Report to Portfolio Holder for Resources and Reputation

Subject: Transfer of the freehold interest in the open space land at Stockings Farm, Arnold

Date: 28 February 2022

Author: Property Services Manager

Wards Affected

Arnold

Purpose

To seek approval for the transfer of the freehold interest in the open space at Stockings Farm, Arnold, as shown edged red in the plan at Appendix 1, (“the Open Space”) from Bellway Homes to the Council.

Key Decision

This is not a Key Decision.

Recommendation(s)

THAT:

- 1) Approval is given for the Council to accept the transfer of the freehold interest in the Open Space at Stockings Farm, Arnold.**

1 Background

1.1 In 2007, Gedling Borough Council entered into a Section106 Agreement with Langridge Homes for the Stockings Farm development in Arnold. The site was later transferred to Bellway Homes (“the Developer”).

The Developer is bound by the terms of the agreement made under Section106 of the Town and Country Planning Act 1990 (“S.106 Agreement”). The S.106 Agreement required the provision of open spaces,

including a formal play area (the “Play Area”), to be provided in accordance with a Council approved Open Spaces Scheme. The S.106 Agreement also provides that the Developer must transfer the freehold interest of the Open Space to the Council or another approved body once completed.

1.2 Such open space has now been provided and, in accordance with the S.106 Agreement the Developer has offered to transfer the freehold interest in the Open Space to the Council.

1.3 In accordance with the S.106 Agreement such transfer, if accepted by the Council, must provide the following:

- The transfer to the Council would be for nil consideration on the part of the Council.
- The Council would hold the land as public open space pursuant to the provisions of the Open Spaces Act 1906 and would not use the land or permit the land to be used for any purpose other than public open space or public recreation.
- The Council will be granted a right of way at all times over any estate roads and paths within the Development until any such roads are adopted as public highways.
- The boundary structures separating the open space from any dwelling will be maintained by the owner of the dwelling.
- The Council will receive an Open Space Maintenance Contribution on completion of transfer for the Open Space, including the Play Area, towards its upkeep and maintenance for 10 years in the amount of £244,905
- The Council will use the Open Space Maintenance Contribution towards future costs of management and maintenance of the Open Space only.
- The Developer will be permitted to use existing services and lay new services on, under or over the Open Space.

2 Proposal

2.1 That the Council accepts the freehold transfer of the Open Space and becomes responsible for its future maintenance as per the S.106 Agreement.

3 Alternative Options

- 3.1 An alternative option could be not to adopt the Open Space so that the Developer would either have to retain the ownership of the Open Space or transfer it to a management company. However, under this scenario the Council would have no future control of the design, layout, repair and maintenance of the Open Space.
- 3.2 Another option would be to transfer the Open Space to the local community however no such requests for transfer have been made at this time.

4 Financial Implications

- 4.1 On transfer of the freehold, the Council will receive a sum of £244,905 to be spent on the repair and maintenance of the Open Space. This will cover the Council's costs for 10 years. Following this 10 year period the ongoing maintenance costs will need to be accommodated within the approved base budget and replacement of play equipment will be considered as part of the normal budget process.
- 4.2 Each party will bear their own professional costs of transfer.

5 Legal Implications

- 5.1 If the Council accepts the transfer of the freehold interest in the Open Space, the Council would own the land following completion of the transfer and be legally responsible for the land and its upkeep and maintenance. Any transfer should be completed in accordance with the provisions contained within the S.106 Agreement.

6 Equalities Implications

- 6.1 There are no equalities implications arising from this report.

7 Carbon Reduction/Sustainability Implications

- 7.1 There are no carbon reduction/sustainability implications arising from this report.

8 Appendices

- 8.1 Appendix 1 Transfer plan showing the Open Space to be transferred edged red.

9 Background Papers

- 9.1 None identified.

10 Reasons for Recommendations

- 10.1 Transfer of the open space to the Council will ensure that the land is managed in accordance with the Council's policies.