

# Cabinet

Date of Meeting 1st November 2016



**Report Title:** Development of Land at Broomhill Road Brislington

**Ward:** Brislington East and Brislington West

**Strategic Director:** Barra Mac Ruairi - Strategic Director Place

**Report Author:** Joe Jeffrey – Property Development Manager

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## Purpose of the report:

To seek Cabinet approval to use two areas of Council owned land to create access to a development site in order that 300 new homes, including 90 affordable homes, can be built.

## Recommendation for the Mayor's approval:

1. That a primary vehicular access over Council owned land from Broomhill Road and an emergency vehicular access from Bonville Road (Marked 1 and 3 respectively on plan no N5954e) are authorised to enable access to be achieved to the development land as shown outlined in red on plan no N5954e.
2. To authorise the Strategic Director: Place to approve the terms and authorise entering into agreements for the freehold disposal of Council owned land with a net capital receipt is valued in appendix 2, following the briefing of the Cabinet Member for Place, shown on the attached plan N5954e outlined in red and shown as Nos 1, 3 & 4, for the purposes of enabling 300 new homes to be built.



## The proposal:

1. The Council (BCC) owns 1.4 hectares (15%) of development land at Broomhill Road Brislington within the redline on the plan no N5954e. BCC's ownership is coloured pink within the redline. Olympia & Hammersmith (O&H) own 7.7 hectares of development land (85%) within the redline coloured blue on plan N5954e. The land has been allocated for 300 new homes including over 90 Affordable Homes within the Councils Site Allocations and Development Management Policy July 2014. This Policy was adopted following public consultation and was subject to a Planning inquiry at which only 14 objections to its housing designation were made.
2. The majority owner O&H proposes to develop the site for housing within a Joint Venture development agreement with BCC. The anticipated capital receipt is detailed in Exempt Appendix 2
3. In Dec 2010 Cabinet agreed to sell the accesses numbered 1 & 3 on the attached plan and 46 other parcels of 'surplus' green space land. This decision was called in and a cross party working group recommended all the sites should be referred to their Neighbourhood Committees for decision on each site. The Neighbourhood Committee's decision, to be based on whether they considered the spaces within their neighbourhood area were still required for their Green Space needs. Cabinet endorsed this approach in Jan 2012 and the Brislington Neighbourhood Committee resolved not to declare this land surplus to their Green Space requirements. However, given that this matter is likely to impact on two or more wards, it is being viewed as a key decision and therefore one that must be taken by Cabinet.
4. BCC is proposing to enter into a Joint Venture development agreement with O&H so that BCC's development and access land is utilised to ensure the development is able to proceed.
5. The Site Allocations and Development Management Policy July 2014 identified one access point to the proposed development land, through the BCC allotments site which is currently used by allotment holders. They are designated as "Statutory Allotments" land and require the Secretary of States (SOS) consent for this designation to be removed and for their relocation elsewhere. Public and allotment holders' objections are expected if this access is used for the development as the allotments will need to be re-provided / relocated. To achieve this, the Council will need to obtain the SOS's consent, objections will be taken into account and as this decision making process is not within the Council's control it will present uncertainty and present a substantial risk to the non-delivery of the project.
6. There are four access options that have been considered to determine whether any suitable access alternatives are available. All the accesses are within BCC ownership and BCC Highways have confirmed that there is a need for a primary access and a secondary emergency access route.
7. The first potential access option considered was the statutory allotments land (No2 on the plan). If selected this access route would be likely to receive many objections which

would be taken into account by the SOS when making a decision. This could be a long process and presents a decision that is not within BCC's control. This presents a high risk to the delivery of the 300 homes.

8. The second potential access coloured pink No 4 on the plan, directly to the north of the allotments above has significant engineering challenges, which are difficult and costly to deliver. Further it is unsuitable for disabled access due to School Road's steep slope. This option would also reduce the amount of homes to be delivered by over 20 units and reduce the Council's capital receipt by removing an up to an acre of the Council's development land to a value of approximately £500k. This access would still require a secondary access to be provided, so if the allotments access (No2 on the plan) remains unsuitable then one of the accesses at points 1 & 3 on the plan would still be required.
9. The third potential access option to the North (No 1 on the plan) is the most appropriate primary access due to it having no slope, being of sufficient width, being the least costly, least risky and least time consuming to deliver. It is within the Council's ownership yet was part of the previous Cabinet decision to enable the Brislington Neighbourhood Committee to make a non-key decision to retain control over its disposal. Cabinet authorised such decision to be made only if this land remained essential to the area's green space needs. This access which was designated as green space can be re-provided within the local area and the nearby Victory Park remains available for public use. Sinnott House, which was the Police Station, is owned by the Council and is suitable for immediate use as development access.
10. The fourth potential access option to the South West (No 3 on the plan) is a potential secondary means of access (as Highways have advised is needed for emergency access) yet remains subject to the same Brislington Neighbourhood Committee decision process as access No 1 and therefore requires similar Cabinet resolution for its use.
11. If Cabinet decides to approve areas No1 and No 3 to be utilised as development accesses, the small loss of green space of areas No 1 & 3 can be replaced within or in the immediate locality of the development.

## **Consultation and scrutiny input:**

### **a. Internal consultation:**

Barra Mac Ruairi - Strategic Director Place

Robert Orrett - Service Director – Property

Zoe Wilcox – Service Director – Planning

Sarah O'Driscoll - Manager Strategic Planning – Planning

Nicholas Mimmack – Lawyer Legal Services

Nick Hooper – Service Director Strategic Housing

Di Robinson – Service Director Neighbourhoods and Communities

Tian Ze Hao – Business Partner Place

Mark Williams – People HR Business Partner

Laurence Fallon – Transport Development Manager

**b. External consultation:**

Officers have consulted and met with the Ward Councillors for Brislington East (the ward in which the land is located) and offers of meetings have been made to the ward councillors for Brislington West. Should these further ward councillor meetings take place, officers will advise during the Cabinet meeting.

**Other options considered:**

1. To utilise the access numbered 2 on the plan from School Road as the primary access. Whilst suitable physically, this would require relocation of Statutory Allotments and the decision on this rests with the Secretary of State. This proposition is likely to result in many objections as part of the SOS's decision making process, which could result in a refusal of the SOS to grant consent. This access option is not within the Council's control despite the land being owned by the Council.

**Risk management / assessment:**

<b>FIGURE 1</b>							
<b>The risks associated with the implementation of the (subject) decision :</b>							
No.	RISK  Threat to achievement of the key objectives of the report	INHERENT RISK (Before controls)		RISK CONTROL MEASURES  Mitigation (ie controls) and Evaluation (ie effectiveness of mitigation).	CURRENT RISK (After controls)		RISK OWNER
		Impact	Probability		Impact	Probability	
1	That 300 homes are not built if Accesses No 1 & 3 are not authorised by Cabinet.	High	High	Cabinet to authorise the sale and use of the accesses numbered 1 & 3 on the plan in appendix 1 for development and access purposes	Low	Low	Bristol City Council
2	That the completion of 300 homes are delayed, reduced in number by 20 and a loss of £500,000 occurs if accesses no 2 and land to the North coloured pink on the attached plan are identified as the preferred primary and secondary accesses	High	High	To utilise accesses numbered 1 & 3 on the plan in appendix 1 for development and access purposes	Low	Low	Bristol City Council
3.	That alternative accesses No 2 & 4 do not receive SOS consent	High	Medium	To utilise accesses Nos 1 & 3 on the plan in appendix 1	Low	Low	Bristol City Council

**Public sector equality duties:**

Before making a decision, section 149 of the Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age,

disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

i) eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.

ii) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to:

- remove or minimise disadvantage suffered by persons who share a relevant protected characteristic.
- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
- encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

The proposed housing units and accesses will be constructed in compliance with current Statutory and Bristol City Council policy requirements. The development will provide approx. 90 affordable homes thereby ensuring fair, reasonable and appropriate access to housing in this location for persons who share a relevant protected characteristic and for those persons who do not share a relevant protected characteristic.

If Cabinet endorses the proposed use of accesses Nos 1 & 3, there will be no mobility challenges to the proposed housing, as no access would therefore need to be gained from access point 4. Access point 4 presents a steep gradient and could negatively impact on those persons with mobility challenges. The use of alternative accesses will ensure the market and affordable housing is accessible to all persons.

## **Eco impact assessment**

Full Ecological Impact Assessments will be carried out as part of the development programme, which cannot commence until the access issue is resolved. Studies on initial ecological impacts were presented at the Public Inquiry as part of the Site Allocations designation approval for 300 new homes which were approved. Further ecological and sustainable assessments will be required and submitted through the proposed Planning application and consequent determination process and these will be available for public scrutiny through the community consultation and Planning processes.

## **Resource and legal implications:**

### **Finance**

#### **a. Financial (revenue) implications:**

No additional revenue implication.

<b>Advice given by</b>	<b>Tian Ze Hao / Finance Business Partner</b>
<b>Date</b>	<b>22/09/2016</b>

#### **b. Financial (capital) implications:**

A net capital receipt is expected through the joint venture development agreement. The estimated net capital receipt is detailed in Exempt Appendix 2. This estimate takes into account additional estimated costs of transport site access, servicing and planning. The earliest timeline for the cash receipt is in financial year 17/18.

**Advice given by** Tian Ze Hao / Finance Business Partner  
**Date** 22/09/2016

**Comments from the Corporate Capital Programme Board:**  
 N/A

**b. Legal implications**

The revisiting of the decisions in relation to the two areas of land in question is now in the context of a large proposed development. Whilst the decision as regards whether a decision is key or non-key is ultimately for the relevant Strategic Director, with a substantial capital receipt involved and the seemingly significant impact on two or more wards of the construction of 300 houses both the level of public and member interest and the expectation of both the public and the members that this type of decision should be taken by the executive (both indicators in the guidance from central government in determining whether a decision is key), putting the decision before Cabinet would seem prudent.

There is no express duty to consult at this stage and, the Neighbourhood Committee that previously took the decision to retain these spaces will be further consulted through the Planning application when there will be a formal consultation period.

I note that the public sector equality duty (PSED) has been considered with regard to ease of access to the proposed development provided by the various areas of land that could potentially be used. Provided the PSED has been considered in relation to all relevant aspects, this transaction will comply with the Council's PSED. Any obligations on the developer in relation to the use of the land, will need to be agreed with the Legal Services Property team as regards any restrictive covenants required. Provided that we are receiving market value for the land, then there will be no state aid implications to consider.

**Advice given by** Sinead Willis. Solicitor, Legal Services.  
**Date** 22.02.16

**d. Land / property implications:**

The proposed development will deliver approx. 300 new homes including 90 affordable homes. The Council owns approx. 15% of the development land but does control the accesses. The Council will therefore receive a capital receipt in accordance with S123 of the local Government Act 1972 which states that Councils will obtain the Best consideration that can be reasonably obtained. The level of this proposed capital receipt is detailed in the attached Exempt Appendix 2.

**Advice given by** Joe Jeffrey – Property Development Manager  
**Date** 6<sup>th</sup> Sept 2016

**e. Human resources implications:**

There are no Human resources implications arising as a result of this report

**Advice given by**        **Mark Williams, People Business Partner.**  
**Date**                      **9<sup>th</sup> Sept 2016**

**Appendices:**

**Appendix 1 – Plan No N5954e**

**EXEMPT - Appendix 2 – The Capital Receipt. - Not for publication by virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (Information relating to the legal, financial or business affairs of any particular person (including the authority holding that information)).**

**Access to information (background papers): None**