



REGULATORY SERVICES COMMITTEE

REPORT

20 February 2014

Subject Heading:	Securing through an agreement with the Greater London Authority (GLA) an agreement for the provision of sports and recreational facilities at the former Broxhill Centre site in association with the residential development of Phase II of the former Whitworth Centre site under enabling powers including section 111 of the Local Government Act 1972.
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Policy context:	Policy SSA2 of the Site Specific Allocations Development Plan Document adopted in 2008
Financial summary:	None

The subject matter of this report deals with the following Council Objectives

- | | |
|---|-----|
| Ensuring a clean, safe and green borough | [X] |
| Championing education and learning for all | [] |
| Providing economic, social and cultural activity in thriving towns and villages | [X] |

Valuing and enhancing the lives of our residents []
Delivering high customer satisfaction and a stable council tax []

SUMMARY

This report relates to the former Broxhill Centre site and the proposed development of Phase II of the former Whitworth Site which is subject to a planning application to be reported to committee in the near future (planning reference P0863.13). The context is set by site specific Policy SSA2 of the Site Specific Allocations Development Plan Document adopted in 2008. That policy includes the following statement :

Residential development will be allowed on the Whitworth Centre site provided that:

- *The Broxhill Centre buildings are demolished and a new public open space provided which re-provides the existing playing fields at the Whitworth Centre along with a high quality landscaped accessible public park, enhancing the openness of the Green Belt.*

The Council retains ownership of the former Broxhill Centre Site and therefore as Local Planning Authority cannot secure through planning obligations the compliance with Policy SSA2, as the Council cannot enter into a planning agreement with itself. In order to secure the requirements of Policy SSA2 in connection with consent for the residential development of the Whitworth Site the Council would enter into an agreement with the Greater London Authority (GLA) based on the heads of terms set out below.

RECOMMENDATIONS

That pursuant to the powers contained in Section 111 of the Local Government Act 1972, section 2 of the Local Government Act 2000, Section 30 and 34 of the Greater London Authority Act 1999 and all other enabling powers the Council as Local Planning Authority enter into an agreement with the GLA to secure compliance with site specific policy SSA2 of the Site Specific Allocations Development Plan Document to undertake works pursuant to Planning Permission reference P0963.13 or any other relevant planning permission substantially in the same form to secure the provision on the former Broxhill Centre site following demolition of the Broxhill Centre buildings a new public open space, playing field and high quality accessible public park, and that any future planning consent for residential development

of the former Whitworth Centre Phase II site could proceed subject to the Section 111 agreement.

REPORT DETAILS

- 3.1 The site specific Policy SSA2 of the Site Specific Allocations Development Plan Document adopted in 2008 links the residential development of the former Whitworth Centre site to the former Broxhill Centre site. The policy provides that residential development will be allowed on the former Whitworth Centre if amongst other things:-

“The Broxhill Centre buildings are demolished and a new public open space provided which re-provides the existing playing fields at the Whitworth Centre along with a high quality landscaped accessible public park, enhancing the openness of the Green Belt.”

- 3.2 The committee resolved to grant planning permission under planning reference P0963.13 on 24th October 2013 and planning permission was issued on 29th October 2013. The permission was for development of a new park including 3G artificial football pitch, multi-use games area, pavilion, car park, floodlighting, play areas, sports tracks and associated landscaping works. The report to Committee considered that the application pursuant to planning reference P0963.13 for the development of recreational and sports facilities was in compliance with site specific Policy SSA2 and policy DC18 of the Local Development Framework. Policy DC18 requires that to compensate for the loss of open space to a non-recreational/leisure use (in this circumstance residential development of the former Whitworth Centre site) it should be accompanied by improvement to the quality of open space in the vicinity. It is also considered to be in compliance with Policy 3.19 of the London Plan 2011 which addresses the provision of sports facilities.
- 3.3 An application has been submitted for Phase II of the residential development of the former Whitworth Centre site under planning reference P0863.13 and this is under consideration and will be reported to Committee in the near future. The ownership of the Broxhill Site remains with the Council therefore the applicants in respect of the Whitworth Site cannot secure through a planning obligation the necessary assurance required by the GLA that the former Broxhill Centre site will be developed in accordance with site specific Policy SSA2. In order to ensure that the development of the former Whitworth Centre for residential is accompanied by the development of the former Broxhill Centre Site to create a high quality park and sports/leisure facility.

- 3.4 The Council as both owners of the former Broxhill Centre Site and the Local Planning Authority cannot enter into a section 106 agreement with itself therefore to satisfy the GLA that the Broxhill Site will be developed in accordance with site specific Policy SSA2 staff are seeking authority to enter into an agreement with the GLA under its ancillary powers under Section 111 of the Local Government Act 1972 and other enabling powers.

IMPLICATIONS AND RISKS

4.1 **Financial Implications and Risks:**

The costs associated with the works to create a high quality open space and sports/leisure facility at the former Broxhill Centre will be funded by capital receipts .

4.2 **Legal Implications and Risks:**

Legal Services will be required to draft the Section 111 Agreement with the GLA.

4.3 **Human Resources Implications and Risks:**

None directly attributable to the proposals.

4.4 **Equalities and Social Inclusion Implications:**

Section 149 of the Equalities Act 2010 (EA) came in to force on 1st April 2011 and broadly consolidates and incorporates the 'positive equalities duties' found in Section 71 of the Race relations Act 1976 (RRA), Section 49 of the Disability Discrimination Act 1995 (DDA) and section 76(A)(1) of the Sexual Discrimination Act 1975 (SDA) so that due regard must be had by the decision maker to specified equality issues. The old duties under the RRA, DDA and SDA remain in force.

The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998.

The equality consideration of access to facilities has been considered during the planning application process and disability access has been positively considered.

CONCLUSION

The section 111 Agreement with the GLA will provide the assurance required that the development at the Whitworth and Broxhill sites will proceed in compliance with site specific Policy SSA2 in that the development of the Whitworth site Phase II for residential will be accompanied by the development of the Broxhill Site to create a high quality open space and sports/leisure facility.

Background Papers List

1. Report of Regulatory Services Committee dated 24th October 2013 which resolved to grant planning permission under planning reference P0963.13[