

HIGHWAYS COMMITTEE

29TH July 2013

Appropriation of Belle Vue site, Consett to facilitate redevelopment as an education Academy and leisure centre



Addendum Report of Stuart Timmiss - Head of Spatial Policy, Planning, Assets and Environment

Purpose of the Report

1. To update Members on objections that have been received and to clarify the Committee's role.

Objections

2. On 24th July a joint objection was received from Councillor Owen Temple and Councillor Alex Watson. A copy of the joint objection is attached at appendix 5.
3. The key elements of the objection are:-
 - a. that the Site is not surplus to requirements; and
 - b. no alternatives have been provided to the public who use the Site for recreational purposes.
4. Section 122 of the Local Government Act 1972 Act ('the 1972 Act') provides that a Council may appropriate for any purpose for which the Council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the Council **and is no longer required for the purpose for which it is held immediately before the appropriation.....**
5. The issue of 'no longer required' is a question for the Council, acting in good faith, to decide. Russell LJ in the Court of Appeal in *Dowty Boulton Paul v Wolverhampton Corporation (No 2) 1976* said:-

'I would construe the words 'not required' in the section to mean not needed in the public interest in the locality for the original purposes.....that question, it is plain to me, involves matters both of degree and or comparative needs, as to which there can be no question that the local authority is better qualified than the court to judge, assuming it to be acting bona fide and not upon a view that no reasonable a local authority could possibly take'.
6. The Council is the sole judge as to whether or not land is still required for the purpose for which it is held immediately before the appropriation.

7. The Council has a vision of bringing together the two facilities, the Academy and the leisure centre, for mutual benefit. The existing facilities are in a poor condition and in need of renewal. After a lengthy consultation exercise the Council concluded that Belle Vue is the most appropriate site.
8. There will be a reduction in the amount of publicly accessible open space but the proposed development will provide an enhanced provision, in line with Sports England's requirements, which outweighs the loss. Outside the secure fence line of the Academy there will be an open access area, mini football/5-aside pitches and perimeter trim trail which will improve what is currently a fairly sterile open space area.
9. There will be a reconfiguration of the current use of the Site resulting in the retention of an element of public open space use and the substantial enhancement of sports and leisure facilities for the benefit of the wider community; the development will offer unrivalled facilities for students and for the wider Consett community.
10. As well as existing open space in the Consett area, including the nearby Consett Park, the amalgamation of the existing schools will release a range of other playing pitches on the existing Blackfyne and Moorside school sites for wider community use. The future of these school sites in terms of development potential is yet unknown but the retention of an element of playing fields could be factored into any future development options.

Constitution

11. After consultation with the Monitoring Officer as the Highways Committee is a non-executive body the role of the Committee is to provide a recommendation to the Executive. The Chief Officer will make the final determination on the appropriation.

Recommendations and reasons

This Committee is requested to consider all of the objections to the proposed appropriation and recommend to the Chief Officer whether or not the appropriation should proceed.

Background papers

Appendix 5 – Objection from Councillor O Temple and Councillor A Watson

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Appendix 1: Implications

Finance – N/A

Staffing - N/A

Equality and Diversity - N/A

Accommodation - N/A

Crime and Disorder - N/A

Human Rights - N/A

Consultation - Councillors Temple, Watson, Foster and Johnson have been consulted. Councillor Foster and Johnson have submitted no comments on the proposals. Councillors Temple and Watson have submitted an objection.

Procurement - N/A

Disability Discrimination Act -

Legal Implications – The appropriation must fulfil the requirements of Section 122 of the Local Government Act 1972.