

27 March 2015

Asset and Enterprise Committee

Mascalls Park - Cycle Track

Report of: *Adrian J Tidbury, Estates and Valuation Surveyor*

Wards Affected: *Warley*

This report is: *Public*

1. Executive Summary

- 1.1 This report considers the widening, re- construction and adoption of the existing footpath as a shared footpath and cycletrack leading from the Mascalls Park Development to Greensleeves Drive.

2. Recommendation(s)

- 2.1 That the Council enter into negotiations with the developer, Bellway Homes concerning the provision of appropriate consideration for the loss of the land to highway.**
- 2.2 That subject to these negotiations, the Council agrees for the track and path as indicated in this report be reconstructed and completed under the terms of the s106 agreement for the development of Mascalls Park and for that cyclepath to be adopted by the Highway Authority - Essex County Council for its future maintenance and protection.**

3. Introduction and Background

- 3.1 Members will be aware of the Bellway Homes development at Mascalls Park for 75 residential dwellings situated in Mascalls Lane north of its junction with Warley Hill.
- 3.2 Members will also be aware that the development is subject to an s106 agreement between the Council, Bellway Homes and Essex County Council.

- 3.3 The s106 agreement sets out the planning requirement for the development and includes requirements in terms of highways and is contained in the Appendix A.
- 3.4 Schedule one of the agreement sets out the requirements of the associated highway works and includes for the construction of a 3 metres wide cyclepath/footpath link between the estate road serving the development and Greensleeves Drive, Clements Park to the north of the site, including lighting, drainage and measures to prevent its use by motorised vehicles.
- 3.5 There are restrictions in the agreement that restrict occupation of the development (no more than 35 residential dwellings) until the cyclepath has been completed.
- 3.6 The agreement also covers the Highway Works Agreement which deals with the construction of the highway works to adoptable standards.
- 3.7 The developer has not sort the approval of the Council to carry out these works but would appear to have relied on the Councils assumed approval through the agreement and officers are now being pressed for permission to commence these works.

4. Issue, Options and Analysis of Options

- 4.1 Whilst the development has passed through the planning stage and the s106 agreement has been signed by all three parties, it relates to the planning aspects of the development and does not provide agreement from the land owner to works outside the development site.
- 4.2 No discussion regarding compensation has taken place with the developer regarding the loss of the land to highway.
- 4.3 The land on which the cyclepath passes is land in the ownership of the Council under title EX633106 and is a path/track currently in existence although in various states of maintenance and indeed width.
- 4.4 The land is currently heavily wooded in nature and unlikely to be used as developable land but kept as public open space.
- 4.5 For the track to be made into a cyclepath as shown in the Appendix B would negate any maintenance to the track in the foreseeable future. In addition, for the cyclepath to be formally adopted by the Highway Authority - Essex County Council, would remove all responsibility for the cyclepath from the Council.

- 4.6 Within the highway adoption process, the land upon which the highway is placed remains in the ownership of the land owner and the highway is added to the Queens Highway for members of the public to have the right to pass and repass in accordance with the Highways Act. The responsibility for the maintenance and protection of the highway becomes the responsibility of the Highway Authority - Essex County Council.

5. Consultation

- 5.1 No formal consultation has been undertaken regarding the proposed refurbishment.

6. References to Corporate Plan

- 6.1 Value for Money: policies that invest in key services to create opportunity for all; provide better value for Brentwood's taxpayers and enhance the Borough's infrastructure whilst modernising and transforming Brentwood Borough Council. We will re-prioritise and focus our resources and be innovative in our approach.
- 6.2 Our Borough: Policies which promote our environment, support sustainable growth, and safeguard our high quality environment including heritage and countryside. We will provide responsive, accessible and forward thinking services for vulnerable residents, supporting people back into work and providing good quality housing making Brentwood our residents' Borough of Choice.

7. Implications

Financial Implications

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- 7.1 The provision of the cycle way may generate a capital receipt for the Council. The Council will not have to fund the development costs of the cycle path and Essex County Council will be liable for the future maintenance costs.

Legal Implications

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7.2 The function of land management and disposal are separate to the exercise of planning powers. The Council owns the open space land which is offsite from the development at Mascall Park and is able to agree to have paths crossing the land on such terms as it required. If the path is adopted and maintained by the highway authority that use will be permanent unless the path is diverted or extinguished

8. Background Papers (include their location and identify whether any are exempt or protected by copyright)

9. Appendices to this report

Appendix A - s106 Agreement under the Town and Country planning Act 1990 as amended relating to land at Mascalls Park, Mascalls lane, Great Warley, Brentwood, Essex CM14 5HQ

Appendix B - General Arrangement of Northern Cyclepath

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