

# FAREHAM

## BOROUGH COUNCIL

### Report to the Executive for Decision 4 November 2013

<b>Portfolio:</b>	Policy and Resources
<b>Subject:</b>	<b>Land Adjoining 268 Brook Lane, Sarisbury Green</b>
<b>Report of:</b>	Director of Finance and Resources
<b>Strategy/Policy:</b>	Asset Management
<b>Corporate Objective:</b>	A dynamic, prudent and progressive Council

**Purpose:**

To seek the view of the Executive on the renewal or otherwise of the current 3 year licence of the land adjoining 268 Brook Lane, Sarisbury Green which will terminate on 9 April 2014 having regard to the consideration of a report on this matter by the Executive on 7 January 2013.

**Executive summary:**

The Executive on 7 January 2013 received a report on the options regarding a strip of land adjoining 268 Brook Lane, Sarisbury Green. The report & decision notice are attached as Appendix A. Following consideration of the report the Executive resolved "that the land is not disposed of, allowing the current licence arrangements to continue". As the 3 year licence will terminate on 9 April 2014 the Executive is asked to reconsider the options for the future use/ownership of this land, so that appropriate arrangements can be put in place once the current licence expires. Views are sought on whether the options contained in the 7 January 2013 report should be reconsidered which includes the granting of a new licence on payment of an appropriate licence fee.

**Recommendation:**

That the view of the Executive is sought on the options regarding the future of the land adjoining 268 Brook Lane, Sarisbury Green following the termination of the existing licence on 9 April 2014.

**Reason:**

To obtain the view of the Executive on the future of the land adjoining to 268 Brook Lane, Sarisbury Green.

**Cost of proposals:**

If it was decided to dispose of the land or continue with the licence arrangement the legal costs would be the responsibility of the purchaser or licensee.

**Appendices A:** Report to the Executive 7 January 2013 and Record of Executive Decision- Disposal of Land Adjoining 268 Brook Lane, Sarisbury Green

**B:** Brook Lane Plan

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## BOROUGH COUNCIL

### Executive Briefing Paper

**Date:** 4 November 2013

**Subject:** Land Adjoining 268 Brook Lane, Sarisbury Green

**Briefing by:** Director of Finance and Resources

**Portfolio:** Policy and Resources

#### INTRODUCTION

1. The Executive on 7 January 2013 considered a report on the options regarding a strip of land adjoining 268 Brook Lane, Sarisbury Green. The report and decision notice are attached as Appendix A. The Executive resolved that the land was not disposed of which allowed the current licence arrangements to continue.
2. The 3 year licence of the land adjoining 268 Brook Lane, Sarisbury Green as shown on the plan attached as Appendix B will terminate on 9 April 2014. This report invites the Executive to consider the options for the future use/ownership of the land so that appropriate arrangements can be made in readiness for the expiry of the current licence arrangement.

#### DETAILED OPTIONS

3. The options regarding the future of the land adjoining 268 Brook Lane as set out in the 7 January 2013 Executive report were as follows;

##### **Option 1**

4. *The Council could licence (or alternatively lease) the strip of land to an interested party (subject to a review of the fee or rental) on a longer term basis or could consider inviting bids from both interested parties for a licence or lease. Whilst the costs of preparing the documentation would be passed to the licensee/lessee there would still be an ongoing administration role for the Council.*

##### **Option 2**

5. *The land could be declared surplus to requirement and disposed of. If this approach was pursued the owners of 266 & 268 Brook Lane have expressed an interest in buying some/all of the land. It could also be of interest to the residents of 1 & 3 Highnam Gardens. Given the level of potential interest in the land officers suggest that the disposal is advertised locally and competitive bids sought. It is also proposed that the land is packaged in 2 parts - a road frontage section and a rear section (the road frontage section is shown cross hatched black on the inset of the plan attached as Appendix B). Any ongoing administration role would cease on the disposal of the land.*

6. *Whichever option is pursued an application to remove the original S106 planning condition would need to be made and it is recommended that this is applied for once a decision has been reached by the Executive. This will take approx 8 weeks as it follows the same process as a full planning application but once achieved will mean that the land is no longer constrained by the condition.*
7. *If the Executive were to declare the land surplus then six months notice will need to be served to bring the licence to an end.*
8. The above options are still relevant to the consideration of the future of the land adjoining 268 Brook Lane, Sarisbury Green. However if the land was declared surplus the giving of six months notice is no longer applicable as the licence will terminate on 9 April 2014. The approved plans for the house at 268 Brook Lane included an 1800mm high close boarded fence with concrete posts along the boundary of the site i.e. separating the development plot from the strip of land. If the land were disposed of to a party other than the current licensees then the fencing obligation (which runs with the application plot and hence would fall to the current owners of 268 Brook Lane) would need to be enforced.

## **INTEREST IN THE LAND**

9. Following the meeting of the Executive on 7 January 2013 both parties who expressed an interest in the land were updated as to the decision. At that stage both confirmed their continued interest in the land. More recently both parties have been advised that a report was to be taken to the Executive and have confirmed their continued interest.

## **LEGAL CONSIDERATIONS**

10. The land is owned by the Council without any onerous covenants. As landowner the Council can manage the land and dispose of it as it sees fit. It has no obligation to retain or sell, all options may be considered and are solely at the Council's discretion. If it was to dispose of the land to a third party it must accord with the principles within Section 123 Local Government Act 1972 and obtain best consideration reasonably obtainable but due to the small value of the land it can in essence dispose of it as it sees fit for a nominal but reasonably valued sum. The value of the land is a relative consideration when dealing with the land, there need not be a formal or elaborate tender process. The Council has no legal obligation to any other person in respect of who has any perceived "right" to the land.

## **RISK ASSESSMENT**

11. If the Executive chooses to dispose of the land, then it would need to be subject to a successful application to remove the s.106 planning obligations, as referred to in paragraph 6 above. If the application to remove the condition was unsuccessful, any proposed disposal could not be progressed.

## **FINANCIAL IMPLICATIONS**

12. If the land were to be licensed or leased an ongoing fee or rental would be received. If the land were disposed of the Borough Council would receive a one-off consideration from the purchaser(s).

## **CONCLUSION**

13. In the light of the 3 year licence of the land adjoining 268 Brook Lane, Sarisbury Green terminating on 9 April 2014 the view of the Executive is sought on the options as set out in paragraphs 4 and 5 above.