

AGENDA ITEM: 5 Page nos. 1 – 11

Meeting	Cabinet Resources Committee
Date	16 December 2004
Subject	Open space at the junction of Deansbrook Road and Crispin Road, Burnt Oak, HA8 – construction of a temporary works compound
Report of	Cabinet Members for <ul style="list-style-type: none"> ○ Resources ○ Performance, Partnerships & Best Value ○ Housing, Neighbourhoods & Community Safety
Summary	To consider public representations to the proposed grant of a short-term lease of a parcel of open space land

Officer Contributors	Dave Stephens, Chief Valuer and Development Manager Robert Colville, Valuer, Economic and Community Development
Status (public or exempt)	Public
Wards affected	Hale
Enclosures	Plan of compound site. Appendix A – Schedule of representations received
For decision by	Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

Contact for further information: Robert Colville, Valuer, Property Services & Valuation, 0208 359 7363

1. RECOMMENDATIONS

- 1.1 That, having given proper consideration to the representations received, it be agreed that the grant of a lease of part of the public open space at the junction of Crispin Road and Deansbrook Road should proceed for the purpose of constructing a temporary works compound upon the basis set out in the report and that the Borough Solicitor be instructed to complete the matter in a form to his approval.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources report dated 1 May 2003 which granted the Watling Estate Improvement Works Programme contract to Kier London Ltd.
- 2.2 Delegated Powers report dated 20 August 2004 which reported on the grant of a lease of the open space at the junction of Deansbrook Road and Crispin Road, Burnt Oak as a contractor's works compound.
- 2.3 Environment Sub Committee 30th November 2004 which reported the advertising pursuant to Section 123 (2A) of the Local Government Act 1972, of the Council's intention to grant a lease of the open space at the junction of Deansbrook Road and Crispin Road to facilitate the provision of a contractor's works compound.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan commits the Council to "plan and manage land use and development in Barnet to enhance quality of life and provide tangible benefits for the community". The proposal in this report does this by facilitating the Watling Estate Phase 2 Improvement Works Programme, thus aiding the regeneration of the borough's housing stock.

4. RISK MANAGEMENT ISSUES

- 4.1 If the grant of the lease of the Crispin Road compound site does not proceed, the Council's Watling Estate Phase 2 Improvement Works Programme will be delayed whilst an alternative site is found, thus having budgetary implications upon the project delivery and reducing the number of properties that are capable of being considered for improvement works.
- 4.2 The lessee must reinstate the land to the Council's satisfaction at the end of the term or upon the earlier determination of the lease, as set out in the proposed terms of the works compound lease.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 5.1 The receipt of a rent as set out in the exempt report.
- 5.2 There are no staffing or ICT issues. The property implications are as set out below in section 8.

6. LEGAL ISSUES

- 6.1 The grant of a lease or disposal of land acquired or held for public open space purposes is permissible subject to the proposed disposal first being advertised in accordance with the provisions of Section 123 (2A) of the Local Government Act 1972.

7. CONSTITUTIONAL POWER

- 7.1 Constitution – Part 3 Responsibility for Functions – Section 3.6 Functions delegated to the Cabinet Resources Committee – All matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the council.

8. BACKGROUND INFORMATION

- 8.1 Barnet Homes have appointed Kier London Ltd as the contractor for the undertaking of the Watling Estate Improvement Works Programme. The works programme will improve the Council's housing stock on the Watling Estate. In order to deliver the agreed programme of works it is necessary for the contractor to establish a works compound from which to operate for the duration of the contract. Whilst works will be undertaken in the numerous houses on the Watling Estate, the site will be used for the storage of equipment, works vehicles and other materials connected with the undertaking.
- 8.2 In the absence of any suitable established works compound site in the vicinity of the Watling Estate, the green space land at the junction of Deansbrook Road and Crispin Road (as shown shaded on the attached plan) has been identified as a suitable alternative.
- 8.3 The Environment Agency has been consulted on the use of the site because of its proximity to the nearby Deans Brook. It has raised no objections to the placement of the works compound as reported, but has asked that all reasonable measures are taken to prevent contaminants from entering the water course.
- 8.4 In accordance with S123 (2A) of the Local Government Act 1972, as a lease of part of a piece of public open space is to be granted to enable installation of the equipment, the proposals were advertised in the local press for a four week period commencing 9th September 2004. This follows a previous period of advertising, commencing 3rd June, which due to a misunderstanding between the Property Services & Valuation Group and Cavendish Media, the appointed advertising contractor, was not carried out so as to meet the requirements of the legislation.
- 8.5 In response to the advertising, 4 letters of objection were received. The objectors, the issues raised and the officers' responses thereto are set out in the attached appendix A.
- 8.6 Having investigated the issues raised by the objectors it is considered that none of the grounds of objection warrant the need to find an alternative site for the construction of a works compound. The site will be fully re-instated at the end of the term or at the earlier determination of the lease, and any disturbance to neighbouring residents has been designed to be minimised. Consequently, it is recommended that the grant of the lease proceeds upon the basis of the following principal terms:
- i. The lease will be for a term of 50 weeks.
 - ii. The lease will commence from the date of the agreement, and will be contracted out of sections 24-28 of the Landlord & Tenant Act 1954.

- iii. The site may be used to store a maximum of 3 office units, 1 residents refuge, 1 mess/changing room unit, 1 toilet block and 6 storage containers. The lease shall also include the provision of up to 4 parking spaces. The provisions of the lease may be altered subject to the Council's reasonable prior consent.
- iv. The rental figure (as outlined in the exempt report) will remain the same throughout the term, and will not be reviewed.
- v. The rental figure is exclusive of all outgoings. The lessee will be billed separately for the connection of all services to the compound. The lessee shall also be responsible for all subsequent periodic utility payments.
- vi. The lessee has an obligation not to do damage to any aspect of the site other than the agreed works and fair wear and tear. A photographic schedule of condition will be carried out prior to the granting of the lease and kept on record by the lessor. The lessee will be responsible for the re-instatement of the green space to the reasonable discretion of the lessor within 4 weeks of the termination of the agreement. Failure to leave the site within 4 weeks of the termination date having fully re-instated the site will incur a penalty payment of £50 per week or part week until the lessor is fully satisfied with the re-instatement works. The lessor may also require the lessee to undertake remedial works during the term if, in the lessor's reasonable opinion, a significant risk is posed to either the site, to those using the site or to adjoining occupiers.
- vii. The lessee must not use or permit the demised land to be used other than as a works compound, subject to the specifications contained within clause iii. The office space will be for office use only.
- viii. The lessee must not assign, underlet, charge, part with possession or otherwise dispose of the premises or any part of the premises.
- ix. The lessee may not make any alterations or additions whatsoever to the site other than those agreed in accordance with the schedule (to be supplied by Kier London Ltd and agreed by both parties).
- x. The lessee to insure any temporary structures erected on the site if they choose to do so. Public liability cover must be held at all times whilst cover for accidental damage, fire and theft of contents will be left to the discretion of the lessee.
- xi. The lessee to indemnify the lessor and to keep the lessor indemnified against all reasonably and properly incurred losses, claims, demands, actions, proceedings, damages, costs or expenses or other liabilities arising in any way from this agreement or any breach of any of the lessee's obligations in this agreement.
- xii. The lessee will deliver up vacant possession on the expiration or the sooner determination of the term.
- xiii. The lessor may terminate the lease in the event of a breach of the terms of the lease or of the termination of the Watling Estate Phase 2 Improvement Works Programme.
- xiv. The lessee will pay the Council's reasonable fees and legal costs.

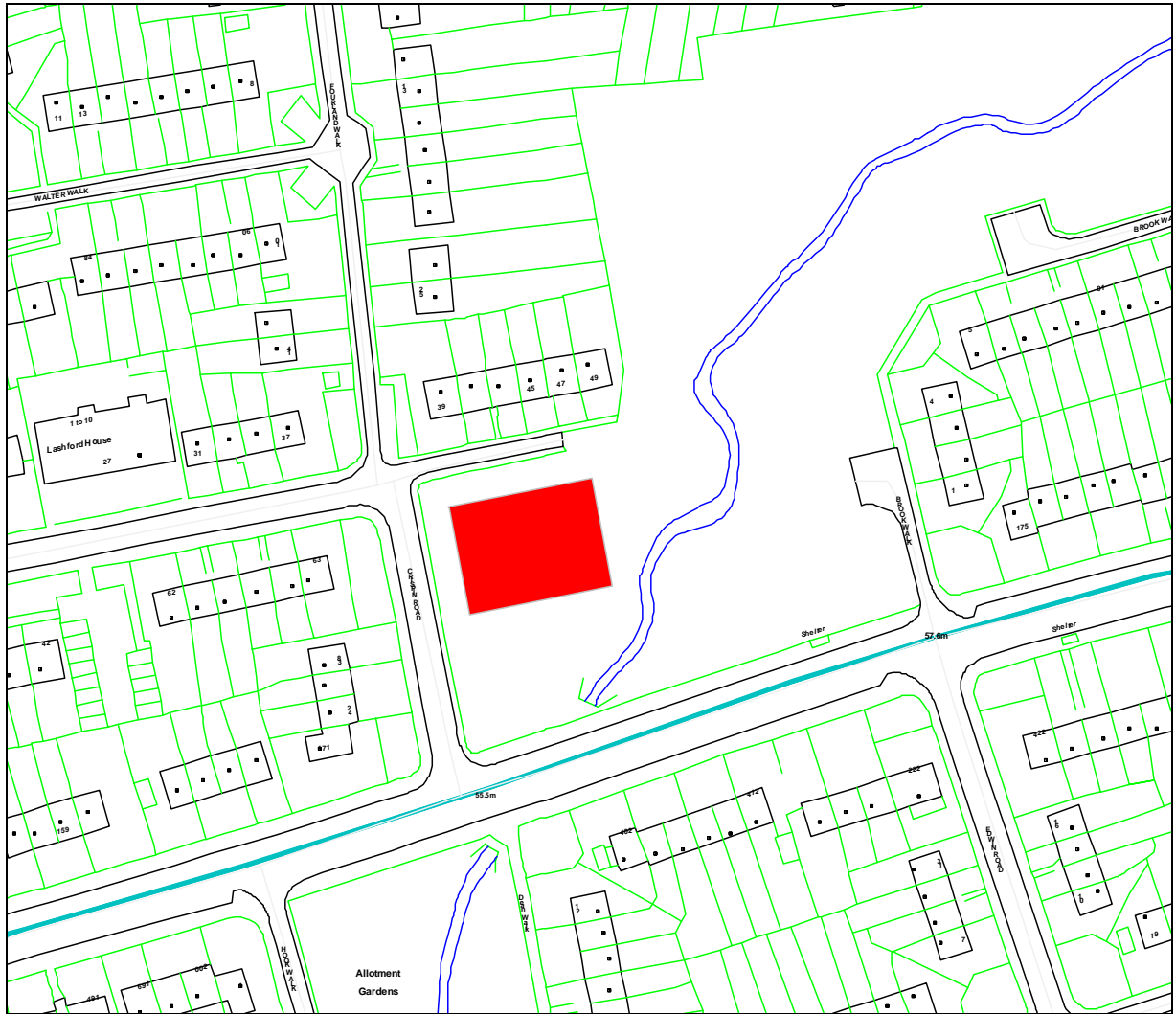
- xv. The lessee may construct the site compound and construct/install any building and structures within it between the hours of 8 a.m. and 6 p.m. Monday to Friday inclusive and between the hours of 8 a.m. and 1 p.m. on a Saturday using the best practicable means to ensure that impact upon surrounding occupiers (noise, dust, vibration, etc) is minimized.
- xvi. The lessee may use the compound and office upon establishment (after the construction period), and for the remainder of the duration of the term, between the core hours of 8 a.m. and 6 p.m. Monday to Friday inclusive, and between the hours of 8 a.m. and 1 p.m. on a Saturday using the best practicable means to ensure that impact upon surrounding occupiers is minimized. Delivery vehicles may under no circumstances access the site outside of these core hours. The lessee may additionally allow the arrival of personnel onto the compound between the hours of 7 a.m. and 8 a.m. Monday to Saturday inclusive, and between the hours of 1 p.m. and 6 p.m. on a Saturday in order to use office/welfare/canteen facilities provided that they take all reasonable measures to ensure that impact upon surrounding occupiers is minimized. Furthermore the lessee may access the compound between the hours of 6 p.m. and 9 p.m. Monday to Friday inclusive so as to conduct tenant consultations and administrative duties provided that they take all reasonable measures to ensure that impact upon surrounding occupiers is minimized.
- xvii. Neither the lessee nor the representatives of the lessee may use the site during either the construction period or the remainder of the term on a Sunday or a bank holiday.
- xviii. The lessee may access the compound at any time in the event of an emergency.
- xix. The lessee must at all times comply with all lawful Environmental Health requirements.
- xx. The lessee may not cause any nuisance or annoyance to the lessor or to any adjoining owners or occupiers.
- xxi. The compound must be fenced at all times after establishment. The lessee will take all reasonable measures to ensure that the site is kept secure at all times.
- xxii. In the event that the lease has not been concluded within the necessary time frame the Borough Solicitor may issue the contractor with a Tenancy at Will which will terminate upon the completion of the lease.
- xxiii. The Borough Solicitor may add such other terms as he feels appropriate.

9. LIST OF BACKGROUND PAPERS

- 9.1 The four letters of objection received.
- 9.2 Any person wishing to inspect the background papers listed above should telephone 0208 359 7363.

BS: VW-R
BT: CM

CRISPIN ROAD COMPOUND SITE (approximate area only - not to scale)



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Schedule of Representations Received concerning the proposed leasing of land at Crispin Road

Name of person making representation and grounds of representation	Officer's comments
1. Mrs E Constantinous, undated letter 2004	
<p>1.1 The Council ought to have informed Mrs Constantinous as to the intended use of the open space.</p> <p>1.2 Mrs Constantinous was considering selling the premises in 2005. Mrs Constantinous does not give further details, but the implication is that the placement of the works compound in the vicinity of her residence will affect the sale.</p>	<p>1.1 The proposal to grant a lease of the open space land was advertised in the local press in accordance with Section 123 (2A) of the Local Government Act 1972.</p> <p>1.2 The positioning of the works compound on the open space at Crispin Road will not cause any loss of value to the neighbouring residences because of the temporary nature of the use.</p>
2. Susan Ferguson, undated letter 2004	
<p>2.1 The Council ought to have informed Ms Ferguson as to the intended use of the open space.</p> <p>2.2 The placement of a works compound on the public open space will result in a loss of green space.</p> <p>2.3 The safety of the children who use the public open space is at risk as a result of the placement of the works compound.</p>	<p>2.1 The proposal to grant a lease of the open space land was advertised in the local press in accordance with Section 123 (2A) of the Local Government Act 1972.</p> <p>2.2 The total area of green space available between Dryfield Road and Deansbrook Road amounts to approximately 2.9 acres. The area required for the works compound amounts to less than 0.2 acres, thus leaving an area of approximately 2.7 acres that may be used for recreation. There will be no permanent loss of open space.</p> <p>2.3 The lease will specify that the compound must be fenced at all times and that the lessee will take all reasonable measures to ensure that the site is kept secure at all times.</p>

<p>2.4 The safety of elderly people resident within the vicinity will be put at risk because of the broken pavement and mud in the road.</p> <p>2.5 Waste on the site will encourage vermin into the area.</p> <p>2.6 Under the provisions of the Watling Estate Phase 2 Improvement Works Programme the houses on Crispin Road have been timetabled for refurbishment works in 2009. Ms Ferguson feels that if the residents of Crispin Road must tolerate the disturbance of having the works compound placed outside their properties that the refurbishment of their premises ought to be given a higher priority.</p>	<p>2.4 The contractor “must at all times comply with all lawful Environmental Health requirements”. The Council may thus enforce this clause should any problems arise. The pavement fronting the entrance to the compound has recently been resurfaced to accommodate a dropped kerb and vehicular cross-over.</p> <p>2.5 It is not envisaged that the use of the compound will increase the presence of vermin in the area as food waste will be minimal and will be disposed of in the proper manner. Under the terms of the lease the lessee “must at all times comply with all lawful Environmental Health requirements”. The Council may thus enforce this clause should any problems arise.</p> <p>2.6 A Housing Stock Condition Survey was completed in 2002 in conjunction with the government’s Decent Homes Strategy. In order to comply with the requisite legislation the Council’s total housing stock was placed in order of condition, with those in most need of attention given highest priority. Barnet Homes do not feel that the order in which the delivery of refurbishment works is completed may be amended.</p>
<p>3. Ms K O’Grady, letter dated 15th September 2004</p>	
<p>3.1 Crispin Road is a quiet, happy neighbourhood, “full of children and families”, and as such is not suitable for the construction of a works compound.</p>	<p>3.1 The viability of using a variety of sites was considered prior to the preliminary decision to proceed with the site at the junction of Crispin Road and Deansbrook Road. This decision was based upon the nature of the site and the reasonable requirements of the contractor (site size, proximity to the Watling Estate, accessibility and turning circle for heavy goods vehicles). The level of disturbance to local residences was designed to be minimised in</p>

<p>3.2 The Council ought to have informed Ms O'Grady as to the intended use of the open space.</p> <p>3.3 The placement of a works compound on the public open space will result in a loss of green space.</p> <p>3.4 The safety of the children who use the public open space is at risk as a result of the works compound.</p> <p>3.5 Works traffic will cause noise pollution and environmental damage.</p> <p>3.6 Waste on the site will encourage vermin into the area.</p>	<p>consultation with the Environmental Health Department. The public open space was considered to be large enough to cater for the requirements of the contractor whilst retaining enough open space for continuous public use.</p> <p>3.2 The proposal to grant a lease of the open space land was advertised in the local press in accordance with Section 123 (2A) of the Local Government Act 1972.</p> <p>3.3 The total area of green space available between Dryfield Road and Deansbrook Road amounts to approximately 2.9 acres. The area required for the works compound amounts to less than 0.2 acres, thus leaving an area of approximately 2.7 acres that may be used for recreation. There will be no permanent loss of open space.</p> <p>3.4 The lease will specify that the compound must be fenced at all times and that the lessee will take all reasonable measures to ensure that the site is kept secure at all times.</p> <p>3.5 The hours of use of the site have been established in consultation with the Environmental Health Department, and meet the requirements of the existing legislation.</p> <p>A photographic schedule of condition has been produced in order that full and proper reinstatement works may be carried out at the end of the term or upon the sooner determination of the lease.</p> <p>3.6 It is not envisaged that the use of the compound will increase the presence of vermin in the area as food waste will be minimal and will be disposed of in the proper manner. Under the terms of the lease the</p>
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<p>3.7 Works traffic will be parked in Crispin Road causing inconvenience and stress to the residents, and will make the area unsightly.</p> <p>3.8 The public open space is a on a flood plain. The placement of the compound on the public open space may detrimentally effect flood water dispersal, causing damage to neighbouring properties.</p> <p>3.9 Ms O’Grady had planned to sell her property in 2005, and feels that the positioning of the works compound in the vicinity of her residence will cause her financial loss.</p>	<p>lessee “must at all times comply with all lawful Environmental Health requirements”. The Council may thus enforce this clause should any problems arise.</p> <p>3.7 The site will be used as a base for works equipment, and it is envisaged that staff will visit the site primarily at the start and end of the work day. Throughout the day vehicles will be parked outside the houses that are being worked upon, so parking will be maintained at manageable levels. There is also provision for up to 4 car parking spaces within the compound.</p> <p>Crispin Road is part of the public highway and is wide enough to accommodate parked cars without significantly hindering traffic flow.</p> <p>3.8 The brook that runs through the public open space does not fall within the jurisdiction of the Environment Agency. Consequently the site of the works compound does not fall within a designated zone on the Environment Agency Flood Map, and is not considered to be at significant risk to flooding.</p> <p>The brook is at a significantly lower level than the surrounding properties, so damage to residences is unlikely.</p> <p>3.9 The positioning of the works compound on the public open space at Crispin Road will not cause any loss of value to the neighbouring residences because of the temporary nature of the structure.</p>
<p>4 Mr & Mrs Thomas, letter dated 23rd September 2004</p>	
<p>4.1 The placement of the works compound on the proposed site will make “the whole area look ugly”.</p>	<p>4.1 The viability of using a variety of sites was considered prior to the preliminary decision to proceed with the site at the junction of Crispin</p>

<p>4.2 The positioning of the compound on the public open space has resulted in “a lot of youths hanging around that area”.</p> <p>4.3 The question is raised as to why the compound could not have been positioned on the public open space, but further away from the residences of Crispin Road.</p>	<p>Road and Deansbrook Road. This decision was based upon the nature of the site and the physical requirements of the contractor (size, proximity to the Watling Estate, accessibility and turning circle for heavy goods vehicles). The level of disturbance to local residences was designed to be minimised in consultation with the Environmental Health Department. The public open space was considered to be large enough to cater for the requirements of the contractor whilst retaining enough open space for continuous public use.</p> <p>The compound is being constructed as a temporary structure. A photographic schedule of condition has been produced in order that full and proper re-instatement works may be carried out at the end of the term or upon the sooner determination of the lease.</p> <p>4.2 The site security of the compound has been substantially increased since works commenced on site to create the compound. Heras fencing has been replaced with palisade fencing, and someone is now on-site 24 hours a day. The contractor has re-affirmed their wish to continue to use the Crispin Road compound in spite of the early problems at establishment.</p> <p>4.3 Access was a key issue to the contractor, and the specific site on which the works compound was placed was chosen because of the proximity of the site to the highway. The re-positioning of the compound to a less “visible” portion of the public open space would have incurred greater temporary environmental damage.</p>
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