

RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER

This form **MUST** be used to record any decision taken by the Elected Mayor or an individual Executive Member (Portfolio Holder).

The form must be completed and passed to the Chief Officer Legal and Democratic Services no later than NOON on the second working day after the day on which the decision is taken. No action may be taken to implement the decision(s) recorded on this form until 7 days have passed and the Chief Officer Legal and Democratic Services has confirmed the decision has not been called in.

1. Description of decision

- i. Approve the granting of an option for the purchase of land at Mowbray Road to Bedfordshire Pilgrims Housing Association (BPHA) in line with the Heads of Terms set out in confidential Appendix B; and
- ii. Authorise the Chief Officer for Commercial Services and Business Transformation to amend the heads of terms in consultation with the Mayor and Portfolio Holder for Finance, Risk & Welfare.

2. Date of decision

28 June 2023

3. Reasons for decision

To maximise the residential development potential of the land and bring forward housing development to meet the needs of local people. To increase to supply of affordable housing within the Borough. To improve the quality of the urban open space in the vicinity of Mowbray Road. To realise the capital receipt target attached to the sale of part of this land

4. Alternatives considered and rejected

The option of marketing the allocated Mowbray land and selling to the highest bidder was considered. This was rejected because the proposal to work in partnership with BPHA is expected to exceed the capital receipts assumptions for sale of this land within the Capital Programme. Further, the recommended approach will deliver wider benefits for the community and, therefore, a more sustainable development

5. How decision is to be funded

The decision will generate a capital receipt

6. Conflicts of interest

Name of all Executive members who were consulted AND declared a conflict of interest.	Nature of interest	Did Standards Committee give a dispensation for that conflict of interest? (If yes, give details and date of dispensation)	Did the Chief Executive give a dispensation for that conflict of interest? (If yes, give details and the date of the dispensation).

The Mayor has been consulted on this decision

Not Applicable

Signed *Tom Wootton*

Date: 28 June 2023

Name of Decision Taker: Mayor Tom Wootton

This is a public document. A copy of it must be given to the Chief Officer Legal and Democratic Services as soon as it is completed.

Date decision published:28June2023.....

Date decision can be implemented if not called in:10July2023.....

(Decision to be made exempt from call in.....NO.....)

Bedford Borough Council – Report to the Mayor

Date: 28 June 2023

Report by: Chief Officer for Commercial Services & Business Transformation

Subject: Grant of an Option to Purchase Land at Mowbray Road, Bedford to Bedford Pilgrims Housing Association (BPHA)

1. EXECUTIVE SUMMARY

- 1.1 This report recommends granting an option for the purchase of land in Mowbray Road in order to deliver a residential development that will meet local housing needs and improved recreational and community facilities on the site of the former Abbey Middle School.

2. RECOMMENDATIONS

The Mayor is invited to:

- (1). Approve the granting of an option for the purchase of land at Mowbray Road to Bedfordshire Pilgrims Housing Association (BPHA) in line with the Heads of Terms set out in confidential Appendix B; and**
- (2). Authorise the Chief Officer for Commercial Services and Business Transformation to agree the final heads of terms of the option, in consultation with the Mayor and Portfolio Holder for Finance.**

3. REASONS FOR RECOMMENDATIONS

- 3.1 To maximise the residential development potential of the land and bring forward housing development to meet the needs of local people. To increase the supply of affordable housing within the Borough. To improve the quality of the urban open space in the vicinity of Mowbray Road. To realise the capital receipt target attached to the sale of part of this land.

4. IMPLICATIONS

Legal Issues

- 4.1 The Council has a statutory duty under Section 123 of the 1972 Local Government Act to obtain best consideration from property disposals. Offering land for sale on the open market is the mechanism for ensuring that this duty is fulfilled. The General Disposal Consent Order (2003), gives Local Authorities freedom to dispose of land at less than market value where it considers the disposal will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. The objective of granting BPHA an option to purchase the land at Mowbray Road/Moor Lane without offering the land on the open market is to bring forward much needed residential development to support local people and create sustainable communities allowing for mutual gain and assisting in delivering an objective within the local plan thereby enabling the Council to secure the promotion and/or improvement of the economic, social or environmental well-being of its area.
- 4.2 The Council's Legal Department will be instructed to act on the Council's behalf to ensure that the agreement protects the Council's interests.

Policy Issues

- 4.3 The Council's approved Corporate Asset Plan requires that, in line with Government guidance, all assets not required to meet the Council's service priorities or statutory needs will be disposed of for best consideration. This policy also directly assists the Council's Capital Investment Strategy by providing capital receipts to meet direct funding needs for approved Capital investment schemes. The Corporate Asset Plan specifically requires that surplus land assets are included in a planned disposal programme that will directly fund the Council's Capital Investment programme.

- 4.4 The site of the former Abbey Middle School has been put forward in the Call for Sites for the Local Plan 2040. The site intersects with flood zone 3 (areas with a high probability of river or sea flooding) and government policy and guidance around development in areas with a higher probability of flooding is quite strict. Sequential and exception testing during the preparation of the Local Plan 2040 indicated that the land was not suitable for residential development and, therefore, the site is not included within the draft plan

Resource Implications

- 4.5 The Capital Receipts programme currently includes a target for the sale of the land allocated within the Local Plan 2030. The final purchase price of the land will be based on a valuation provided by an RICS Registered Valuer less specified costs including planning, s106/CIL, off-site infrastructure, abnormalities (e.g. archaeology, contamination etc.) and a 15% reduction to reflect internal cost incurred by BPHA plus the risk factor, subject to a minimum capital receipt. Costs will be calculated on the basis of an open-book approach.

Risk Implications

- 4.6 The key risk is that the costs associated with bringing forward development and re-provision of community facilities are higher than anticipated and that BPHA will not be able to deliver a viable development and deliver the minimum capital receipt. The Council will work closely with BPHA during the period of the Option to monitor the situation and agree alternative strategies to ensure that a viable scheme can be delivered well in advance of the long-stop date proposed in the options.
- 4.7 There is also the risk of community opposition to the proposals. BPHA propose early community engagement and throughout the development of the proposals in order to manage this risk and ensure that the overall scheme results in improved facilities for the community.
- 4.8 There is a risk of higher than expected deductions for planning, S106/CIL, off site infrastructure and abnormal costs will erode the net capital receipt. Robust negotiations and monitoring will be required in order to effectively manage this risk.

Environmental Implications and contribution to achieving a net zero carbon Council by 2030

- 4.9 Any development will meet the design quality principles set out in Policy 29 of the Local Plan 2030 and the Building Regulations Principles of Sustainable Development.

Equalities Impact

- 4.10 The activity has no relevance to Bedford Borough Council's duty to promote equality of opportunity, promote good relations, promote positive attitudes and eliminate unlawful discrimination. An equality impact assessment is not needed. BPHA, however, will equality impact assessments to support their proposals where relevant.

5. DETAILS

- 5.1 The plan attached at Appendix A shows the land in question, which comprises:
- Land at Mowbray Road/Moor Lane allocated for housing development approximately 2 hectares/4.9 acres (outlined green);
 - The remainder of the Mowbray Road/Moor Lane playing fields not allocated for housing development approximately 1.8 hectares/4.6 acres (shaded blue); and
 - The former Abbey Middle School site approximately 5 hectares/13.3 acres (outlined red)
- 5.2 The area of playing field identified for development is covered by Policy 20 of the Local Plan 2030 and is expected to deliver in the region of 115 new housing units. There is a requirement to relocate the playing fields to the Abbey Middle site. The remainder of the playing fields were not included in the allocation because part of the Abbey Middle site was reserved for school development.
- 5.3 Abbey Middle school closed in 2014 and was demolished in 2019. The Council received consent from the DfE to dispose of part of the land in 2017 on condition that the money was invested in the provision of permanent classrooms at Daubeney Academy. Although the permanent classroom has been provided at Daubeney, the Abbey Middle land has not yet been sold due to the potential need for a new primary school site. Consultation with officers in both Planning and Education have confirmed that development proposed in the 2030 Local Plan and the draft Local Plan 2040 will not result in a requirement for a school in this location.
- 5.4 The majority of the former Abbey middle site intersects with flood zone 3 (higher risk of flooding), whereas the Mowbray Road playing fields sit in flood zone 1 (lowest risk of flooding). The sequential and exceptions testing undertaken during the preparation of the draft Local Plan 2040 concluded that development of housing on the former Abbey Middle would not be sustainable. Discussions with the Environment team have also suggested that they would support the relocation of all of the playing fields and changing facilities in order to improve the quality of the provision, which would free up the whole of the current playing fields for development. No formal pre-app advice has been sought from the Planning team; however, informal discussions indicate that the

proposal would be in accordance with current planning policies. The proposal is that BPHA will develop a masterplan to demonstrate how the land across both sites can be utilised to deliver policy compliant housing development and improved open space/recreational facilities. This masterplan will be developed with a full community engagement plan to ensure that the wishes and needs of the local community are addressed.

5.5 Draft heads of terms have been agreed with BPHA for the grant of the option, these are attached in the confidential appendix. An option will provide the framework to enable BPHA to invest the resources necessary to develop the masterplan and bring the site forward for residential development through the planning system and, thereafter, to develop it out. The land to be bought forward for residential development will be the allocated site within the Bedford Local Plan 2030 with further consideration given to the potential of the land to the East of the allocated site for residential purposes. It is proposed that community infrastructure will be relocated onto the Former Abbey Middle School. Both the residential development and community infrastructure delivery would be undertaken by BPHA, with the long-term ownership of the residential land being held by BPHA, and the community infrastructure being held by Bedford Borough Council. BPHA will fund and manage the project team, with the support of the Council, to engage with the community and stakeholders and finalise a proposal to be submitted for planning. The key elements of the heads of terms are:

- The Option Land will be that as shown edged green (“the Allocated Land”) and that edged blue (“the Non Allocated Land”) on the attached shown on the plan attached at Appendix A.
- BPHA will have the ability to opt to split the land into two parcels and there will be no obligation on BPHA to pursue an application on the Non -Allocated Land.
- The Former Abbey Middle School site will be used for the provision of community infrastructure. It is to remain in the Council’s ownership, subject to licence for BPHA to access as necessary to develop the community infrastructure required to deliver development on the Option Land.
- Open space/landscaping on the Option Land would remain within BPHA’s ownership; any Public Open Space and adoptable highways would be passed to the Council (subject to planning requirements).
- The Council will transfer the freehold interest in any land transferred to BPHA together with all necessary rights for the access and use, servicing and effective operation and development of the land.
- It is anticipated that any off-site works (for example new football pitches, skate park, changing rooms/community facility, new foot bridge, existing bridge upgrade) will be managed under the terms of the planning agreement. BPHA will be responsible for undertaking these works and the Council will grant of appropriate licences to enable BPHA to access and complete such works.
- The Council will assume responsibility for those items post completion of the works subject to BPHA transferring any S106 or other commuted sums and warranties to the Council.

- BPHA will be obliged to submit a planning application within two years of the date of the Option, having progressed a scheme development in liaison with the Council.
- BPHA will lead on the community consultation and the Council to offer all reasonable support to assist with this. This will include liaison with local elected members, Mayor and internal departments.
- The Council will also assist, insofar as it is able to do so, with any required third party liaison, including with the users of the option parcel and owners of adjoining or adjacent land in conjunction with potential need to relocate. Those third parties expected to include (but are not limited to): Sport England, Environment Agency, lead Local Flood Agency, Local Highway Authority /other interested parties.
- There will be no relocation of playing pitches and changing rooms until the replacement facilities are ready for use.
- In return for the Option fee of £1.00 BPHA will be investing significant funds in the speculative planning application for the development, to include costs of appropriate searches, surveys and the like, as well as the promotion of the planning application.
- A deposit of 10% of the purchase price will become payable upon the triggering of the Option. The purchase price will be the Market Value of the land (to be determined through a jointly commissioned valuation undertaken by an RICS Registered Valuer) less allowable costs determined on an open book basis:
 - S106/CIL liabilities
 - Contamination or remediation works required;
 - Utility upgrades;
 - Archaeological costs;
 - Losses due to any delays as a result of any matters coming to light during the planning process;
 - Additional infrastructure works
 - Any off-site infrastructure costs (Community, Pitches Bridge etc.
 - Abnormal Costs
 - 15% discount to reflect the costs/risks carried by BPHA
- A minimum price has been agreed that will be indexed to the Nationwide House Prices Index.

6. ALTERNATIVES CONSIDERED AND REJECTED

- 6.1 The option of marketing the allocated Mowbray land and selling to the highest bidder was considered. This was rejected because the proposal to work in partnership with BPHA is expected to exceed the capital receipts assumptions for sale of this land within the Capital Programme. Further, the recommended approach will deliver wider benefits for the community and, therefore, a more sustainable development.

7. **SUMMARY OF CONSULTATIONS AND OUTCOME**

7.1 The following Council units or Officers and/or other organisations have been consulted in preparing this report:

Management Team
Chief Officer for Finance
Chief Officer for Legal, Performance and Democratic Services
Chief Officer for Environment
Chief Officer for Planning, Infrastructure and Economic Growth

7.2 Any relevant comments have been incorporated into this report.

8. **WARD COUNCILLOR VIEWS**

8.1 Ward Councillors have been consulted and have indicated their support for the proposal to work with BPHA to bring this development forward.

Report Contact Officer: Margaret Birtles, Manager for Asset and Estate Management
Margaret.birtles@bedford.gov.uk

File Reference: Not applicable



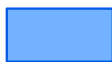
Previous Relevant Minutes: None

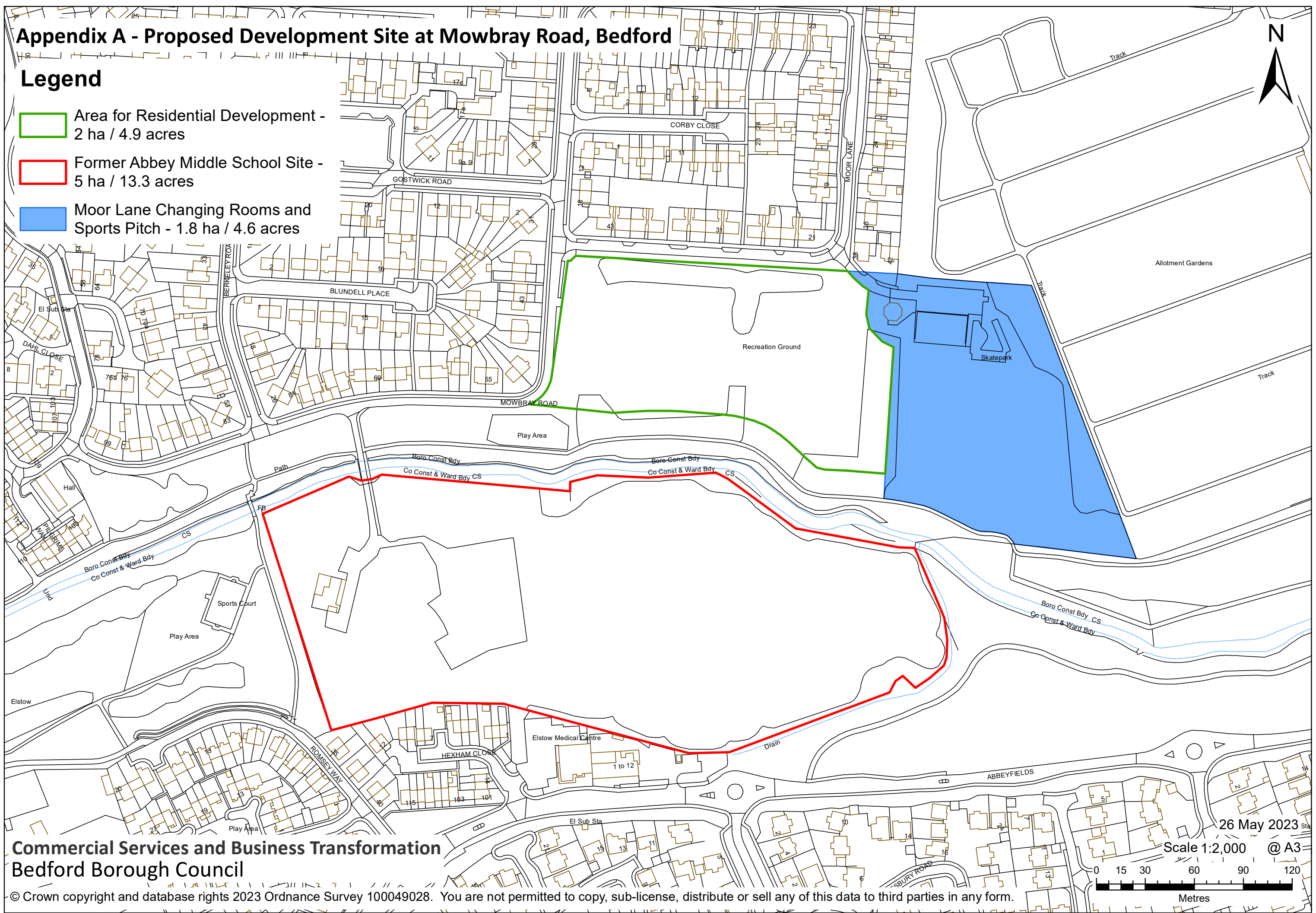
Background Papers: None

Appendices: Appendix A – Proposed Development Site at Mowbray Road, Bedford
Appendix B – Confidential and not for publication: Draft Heads of Terms

Appendix A - Proposed Development Site at Mowbray Road, Bedford

Legend

-  Area for Residential Development - 2 ha / 4.9 acres
-  Former Abbey Middle School Site - 5 ha / 13.3 acres
-  Moor Lane Changing Rooms and Sports Pitch - 1.8 ha / 4.6 acres



Commercial Services and Business Transformation
Bedford Borough Council

© Crown copyright and database rights 2023 Ordnance Survey 100049028. You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.

26 May 2023
Scale 1:2,000 @ A3
0 15 30 60 90 120
Metres