

## Report for Resolution

**Report to** Cabinet  
15 February 2012  
**Report of** Director of Regeneration and Development  
**Subject** Bowthorpe Threescore- appropriation of land

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Item

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### Purpose

To seek approval to advertise the proposal to appropriate the Bowthorpe Threescore site as planning land.

### Recommendation

Cabinet is recommended to:

- Advertise the proposed appropriation of the Threescore site under Section 122 of the Local Government Act 1972, for purposes within Part 1X of the Town and Country Planning Act 1990
- Delegate to the Director of Regeneration and Development the final decision about the appropriation of land following consideration of any representations made in response to the advertisement.

### Financial Consequences

The financial consequences of this report are related to the risk of village green status and the impact that this would have on the Council's land asset.

### Risk Assessment

The main risk highlighted in this report relates to potential claims for village green status. This report proposes an approach to remove this risk based on recent case law.

### Strategic Priority and Outcome/Service Priorities

The report helps to meet the strategic priority "Strong and prosperous city – working to improve quality of life for residents, visitors and those who work in the city now and in the future" and the service plan priority to bring forward the development of Bowthorpe.

**Cabinet Member:** Councillor Arthur

**Ward:** Bowthorpe

### Contact Officers

Gwyn Jones

01603 212364

### Background Documents

Norwich and HCA Strategic Partnership- Collaboration and Investment Agreement- September 2009

## Report

### Background

1. Threescore is the largest residential development allocation in the city with the remaining landholding extending to approx. 32 hectare (79.11 acres) – Land was acquired at Bowthorpe originally in 1973, the main masterplan was produced in 1974 and the original planning brief for Three Score was adopted in 2002.
2. The Bowthorpe Threescore site now forms part of the partnership agreement with the Homes and Communities Agency (HCA). The intention is to develop the site and to reinvest the proceeds to meet Partnership objectives in the city.

### Village green risk

3. Under s.15 of the Commons Act 2006, a person may apply to the Commons Registration authority to register land as a town or village green where a significant number of local inhabitants have indulged as of right in lawful sports and pastimes for at least 20 years. There is a risk for all development sites that such a claim could be made. This could potentially delay or prevent development taking place. However recent case law (BDW Trading Ltd (t/a Barratt Homes) v Spooner (representing the Merton Green Action Group) and another EWHC B7 (QB) 15 February 2011) established that where the council has appropriated land for planning purposes and granted planning permission to develop, the developers rights override any right to use the site as a village green. (S.241 Town and Country Planning Act 1990.)
4. The Council's terrier records refer to land at Bowthorpe being acquired in 1973 under three separate powers: Town and Country Planning Act 1971; Housing Act 1957; and Norwich Corporation Act 1933. Although it is assumed that the acquisition of the land at Threescore was under planning powers, this is not clear from any of the records currently available. So far no plans have been located showing which areas of land were acquired under which powers.
5. Any potential problem can be resolved by agreement of Cabinet to formally appropriate the land for planning purposes. The power of appropriation is contained in Section 122 of the Local Government Act 1972, and the appropriation would be for purposes within Part 1X of the Town and Country Planning Act 1990. Although the site has been allocated for development since 1974, there is a technical argument that the Three Score land is "open space". A proposed appropriation of "open space" must first be advertised in a local paper for two consecutive weeks (in accordance with s.2A of the 1972 Act) and any objections considered. An objection period of 21 days after the date of the first notice is advised. Any representations will need to be considered before making a final decision on appropriation.