



NOT FOR PUBLICATION

**WARDS AFFECTED:
HUMBERSTONE, HAMILTON
AND BEAUMONT LEYS WARDS**

CABINET

12 JUNE 2006

GATEWAY COLLEGE – MANOR FARM, HAMILTON

Report of the Corporate Director of Resources

1. Purpose of Report

- 1.1 Gateway College are keen to relocate from their City Centre site to one at Manor Farm, Hamilton. The land (approximately 10 acres) is currently owned by the Council and this report advises on the outcome of negotiations for disposal to Gateway.

2. Summary

- 2.1 Members will be aware of Gateway College's desire to relocate and the fact that they initially considered a site at Rushey Fields.
- 2.2 Their attention is now on a Council owned site at Manor Farm, Hamilton and negotiations have been ongoing with them over the sale of the freehold interest. They have made an offer of £3m inclusive of VAT, effectively £2.8m, which falls short of the Council's minimum valuation of £3.5m exclusive of VAT. It appears that Gateway will not increase their offer further and the report gives Members the options of confirming in principle support for sale; and if so that the Council will only sell at £3.5m plus VAT; or that the Council will sell at a reduced figure subject to the clarification of community facilities that will arise from the construction of a new college, satisfactory agreement on joint use arrangements, and satisfactory agreement over terms for the sale of land at Blackbird Road. Due to Gateways VAT position sale to them at £3.5m plus VAT would effectively cost them £3.77m.
- 2.3 Relocation of the college will also release their land at Blackbird Road playing fields. This is located adjacent to Council owned land and a combined sale for residential development would be advantageous. Gateway do have a view that their element of the site is the more attractive part and would seek a higher than pro rata split of sale proceeds accordingly. The report recommends that any agreement for the sale of land at Hamilton is tied in with a satisfactory agreement of terms over a combined sale of the Blackbird Road sites.

- 2.4 There is likely to be a requirement for any purchaser of the land to construct an access road to the Council's retained land. Other abnormal development costs may also arise and if so the purchaser may seek an appropriate reduction in the land price to reflect these costs. In the circumstances the base value figures of £2.8m and £3.5m set out above could be reduced.

3. Recommendations

- 3.1 1. Cabinet are asked to consider whether it supports the principle of a sale of land at Hamilton as indicated hatched on attached plan cttee 128 to Gateway College.

2. If the principle is supported, Cabinet is asked if:-

- a) It requires Gateway to pay a minimum base value of £3.5m (exclusive of VAT) for the land at Manor Farm.

or

- b) It supports at a reduced figure, the maximum reduction to be £0.7m off the £3.5m base value, subject to clarification of community benefits accruing, satisfactory agreement on joint use arrangements, and satisfactory agreement over terms for the sale of land at Blackbird Road.

3. If Cabinet is minded to agree either option 2(a) or 2(b) above, then it is recommended that authority is delegated to the Corporate Director of Resources in consultation with the Lead Member for Resources to agree terms for the sale of land at Manor Farm including any reduction in base value resulting from boundary clarification, a requirement to construct an access road to the Council retained land and other abnormal development costs encountered and for the Head of Legal Services to enter into any necessary documentation.

- 3.2 It is also recommended that:-

- a) any agreement for the disposal of land to Gateway at Manor Farm is contingent upon agreeing satisfactory terms for the sale of land at Blackbird Road Playing Fields.
- b) authority is delegated to the Corporate Director of Resources, in consultation with the Lead Member for Resources to agree terms for the sale of land at Blackbird Road Playing Fields and for the Head of Legal Services to put into place any necessary documentation.

4. Financial and legal Implications

Financial Implications

- 4.1 Any VAT chargeable on the sale is likely to be irrecoverable by Gateway given their charitable/educational status. However, the Council exercised an (irrevocable) option to tax on 4.5 acres of the site in 2001. The balance of the site is not currently subject to an option and could, therefore, be sold exempt of VAT. Although this is contrary to the Council's usual policy in land disposals (which is to opt to tax wherever possible to mitigate VAT partial exemption issues arising), in this instance, as Gateway will be unable to recover such VAT, this policy may be waived without serious implications. Subject to detailed negotiations, therefore, approximately 45% of the sale proceeds will be subject to VAT.
- 4.2 One of the options is to dispose of 10 acres at Hamilton to Gateway College for the sum of £3 million inclusive of VAT but excluding any deductions for abnormal development costs. As 4.5 acres of the site has already been opted to tax, and Gateway College, given their charitable/educational status cannot reclaim VAT, this would result in £201,000 of the sale price of £3m being irrecoverable. This would leave £2,799,000 for the Council before deductions for abnormal development costs. There is also a potential risk of additional VAT on the road works which would constitute part of the abnormal costs. If these road works can't be secured under a planning agreement, and cost say £100,000, the additional VAT payment could be £6,700.
- 4.3 A valuation of the 10-acre site by officers has indicated that the open market value would be in the region of £3.5 million to £4 million plus VAT but excluding deductions for abnormal development costs. Thus, the undervalue for selling the land to Gateway can be estimated to be in the region of £700,000 to £1.2 million though without actually marketing the site, this would remain an estimate.
- 4.4 Abnormal development costs required could be deducted from the capital receipt. These works, which include construction of an access road, have been estimated at £250,000 and if this amount was deducted from a capital receipt of £2.8m, would result in a net capital receipt available to fund the Council's corporate capital programme of an estimated £2.55 million.
- 4.5 In the past it was considered likely that expensive deep sewers would be required for this site at a cost of approximately £1 million. However, at present this extent of works is not thought to be necessary, though this has not been finally resolved yet.

4.6 The disposal of the Hamilton site to Gateway College could also be tied in to a deal for the combined sale of land at Blackbird Road. The Blackbird Road site is owned approximately two thirds by Gateway and one third by the Council, and Gateway are claiming an enhanced value in the region of £500k to £750k. This remains a negotiable issue and it is a threatening factor, which could be removed as part of this proposed sale of land at Hamilton.

(Financial Implications - Author: [REDACTED])

Legal Implications

4.7 Under Section 123 of the Local Government Act 1972 the Council is required to dispose of land for the best consideration that is reasonably obtainable in the circumstances. However, the Council is permitted to dispose of land for less than best consideration in certain circumstances under the 2003 General Disposal Consent for land and property (“GDC”). The disposal must be one which will secure the economic, social or environmental well-being of the area in question in order for the disposal of the property to benefit from the GDC.

4.8 The intention to dispose of the property at best consideration on the basis of a one to one transaction without open marketing for purposes set out in this report, will need to be in accordance with the Property Disposal Policy Framework agreed by Cabinet in October 2003 referred to in the Supporting Information. Members will need to be satisfied that the disposal accords with the relevant provisions of the Framework relating to exemptions for 1-1 disposals.

4.9 However, as explained in the report, officers cannot be absolutely certain that best consideration has been achieved. (Without open marketing there is the potential risk that a higher value could have been achieved through exposure to the market.)

4.10 Therefore, members will also need to ensure that any disposal is consistent with the powers contained in the GDC. The GDC allows local authorities to dispose of assets of less than best consideration to secure social, economic and environmental benefits where it is considered that these benefits will flow from any such disposal. Therefore the Council will need to be satisfied on the basis of the advice contained in this report (and on the information supplied), that the disposal will result in the achievement of the benefits referred to above.

4.11 Given that any disposal at less than best consideration will have a financial implication for the Council, the Council will also need to ensure that the Council’s general fiduciary duty is complied with in disposing of assets in accordance with the GDC or the Disposals Framework. Any sale documentation will need to contain provisions, which will secure the achievement of the benefits set out in this report or the terms subsequently agreed.

4.12 With regard to the proposed community benefits, these have not been quantified and it may be helpful to have further information on these and the likely benefits that would accrue to the local community in the event that we proceed further.

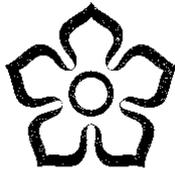
(Legal Implications – Author: [REDACTED])

5. Officer to contact:

[REDACTED]

DECISION STATUS

Key Decision	No
Reason	
Appeared in Forward Plan	No
Executive or Council Decision	Executive (Cabinet)/Council



Leicester
City Council

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GATEWAY COLLEGE – MANOR FARM, HAMILTON

Report of the Corporate Director of Resources

SUPPORTING INFORMATION

1. Report

1.0 Background

1.1 Gateway are keen to relocate from their city centre site to one at Manor Farm. They want to acquire approx 10 acres of land, although this will depend on the exact requirements of an access road and a bridge linking the site to the Hamilton District Centre. The land concerned at Manor Farm has been the subject of interest from other parties over the year. For some considerable time discussions have taken place with a variety of religious groups on establishing places of worship. Interest was also previously expressed by MOSAIC (a charitable organisation).

2.0 Disposal Framework

2.1 Cabinet of 13th October 2003 approved the Framework for the Disposal of Property. This sets out how disposals of land are to be addressed in the context of the Council's requirements to obtain best consideration under Section 123 of the Local Government Act 1972. The general assumption is that land is marketed on the open market except where recognized exceptions apply. The recognized exception, which may apply to a disposal directly to Gateway (without marketing) is Service Delivery i.e.

A disposal to a person or body where the terms of the disposal are to facilitate the exercise of the Council's functions, subject to the Council's Community Plan and Budget and Policy Framework, and where there are:

- 1) significant returns or benefits to the Council commensurate with the level of service or function that would otherwise have been provided by the Council or
- 2) where the services are of a high priority but the Council is not delivering the service direct

However, in both cases, where there is a market for similar service provision this category shall not apply.

- 2.2 Gateway College is part of the incorporated education sector and, as such, operates independently of the city Council. It is a sixth form college offering educational opportunities, primarily for 16-19 year olds, but also a number of evening and basic skills courses. Although it is independent of the City Council, together with the other sixth form and FE colleges and the LSC, it is a key partner in the Council's response to the Governments 14-19 Education and Skills implementation plan.

Local Education Authorities, Learning and Skills Councils (LSCs), schools and colleges are required to work closely to ensure that there is a full and diverse range of educational opportunities for 16 to 19 year olds. For the City Council, as with its partners, the line between direct and indirect service provision will be much less direct in the future. The Framework sets out that where there is a market for similar service provision, the criteria for dealing on a one to one basis (i.e. without marketing) does not apply. However, the Children and Young People's Services (CYPS) Department advise that the Gateway proposal has the support of all local partners within the Incorporated Sector and it is therefore unlikely that an alternative provider would come forward from this Sector.

- 2.3 It is also important to recognise that education standards are a key priority in both the Community Plan and the Council's Corporate Direction. Also, although not strictly applicable under the Framework, Gateway's relocation from their city centre site may help facilitate De Montfort University's Masterplan for regeneration of that part of the city.

If the Council is satisfied that a sale of land at Manor Farm to Gateway is an 'exceptional disposal', the terms of the disposal will need to be addressed, predominantly the value of the land.

3.0 Valuation/Planning

3.1 The value of the land is influenced by the uses it could be developed for (in the absence of the Gateway proposal) under planning policy. The Replacement City of Leicester Local Plan identifies the Manor Farm land as being within the Hamilton Town Centre Commercial Zone. Part of the land is identified as proposed community and leisure use, and part in a 'Potential Development Area' (PDA). This PDA designation sets out Priority Uses as community facilities and leisure, but with subordinate uses of residential, major leisure, pub/restaurant and offices. This range of uses makes the site potentially very valuable and a private landowner would market the site or submit a planning application for a particular scheme with a view to maximizing the valuable commercial elements. However, in the context of dealing with Gateway on a one to one basis the Council is unable to market the land. Also, in the absence of a detailed planning application for a commercial scheme being submitted, it is not possible to determine how much of the land could be developed for commercial use.

3.2 Gateway's agent has advised that his opinion of value is in the region of £250,000 per acre, which for 10 acres would give £2.5m. Despite this Gateway have recently offered £3m inclusive of VAT, which would result in a net receipt of around £2.8m (see financial implication 4.1 of covering report).

The agent argues that community / leisure uses are identified as Priority Uses, and the Local Plan states that the Council wishes to ensure there is adequate provision of sites for such uses. He considers that in adopting the Local Plan the Council acknowledge the need to facilitate these uses for the community without being subject to the risk of exclusion by competition from more commercially profitable uses. He considers there is a dearth of comparable market evidence available but his analysis of the information available gives him the figure of £250k per acre. He has produced no comparable market evidence.

3.3 I consider we must nevertheless look to what the open market would pay for the land. Also, whilst the Local Plan identifies Priority Uses in PDA's, it indicates that the wider range of Subordinate Uses may also be allowed as long as they don't compromise potential for Priority Uses. A developer, other than Gateway, may come up with a detailed scheme that produced a range of uses, and would seek to obtain planning consent for such a scheme. This could include leisure elements which are more commercially viable than Gateway's proposals. Whilst accepting there is limited comparable evidence we must look to what is available.

My opinion is that the value of 10 acres of land here lies in the region of £3.5m to £4m. This is based on the evidence that is available from land sales in Leicester and discussions with agents who have marketed land in the general vicinity.

4.0 Blackbird Road

4.1 Gateway and the City Council have land ownerships at Blackbird Road which is earmarked for residential development. Approx $\frac{2}{3}$ of this is owned by Gateway and $\frac{1}{3}$ by the Council. If planning consent is obtained a comprehensive development of the two ownerships is likely to maximise value with the combined value likely to be in the region of £9m. It has previously been anticipated that this would be split on a pro rata basis according to land ownership. However, Gateway argue that their site is potentially more valuable than the Council's, citing factors including ground conditions, drainage and notably access. They state that because of this they could have an enhancement in the region of 20% of the Council's land value. This remains a negotiable issue and it is nevertheless a threatening factor which could be resolved if the two parties worked together here, and at Manor Farm. The enhancement claimed by Gateway at Blackbird Road is in the region of £500k to £750k.

5.0 Community Benefits/Joint Use Opportunities

5.1 Gateway have provided information in support of their proposals at Manor Farm, as set out in 5.2 and 5.3 below.

5.2 They are one of three colleges in central Leicester providing sixth form education. Their existing accommodation has been reviewed on a number of occasions and found to be outdated and inadequate for the modern learner. The college indicates that it's very future could be called into question as it has a limited lifespan within its current location. They have previously pursued an option to relocate to Rushey Fields based on the same educational arguments, but this has not proved possible. Gateway see themselves as a provider of 16 – 19 education for the wider community and as a community asset. The Manor Farm proposals support this community role and the intention is for facilities to be open to the local community.

5.3 The college wish to construct some 10,000 sq.m of accommodation which is a mixture of general classroom and specialist space. The plans include a large community use sports facility, football and cricket pitches, together with a theatre and amphitheatre. Depending on final plans, other facilities could also be available. The sports hall and pitches will be developed to Sport England standards.

- 5.4 Gateways' proposals as set out above are at a preparatory stage. The exact detail of what is ultimately provided, and arrangements for when facilities are open to the public will be the subject of future discussions. Also it is not known how the whole surrounding community will react to Gateways' proposals. Nevertheless, Gateway clearly see themselves as a community asset, with their intention being that full use of facilities is made by the local community. Also CYPS advise that access to sports, arts, ICT and leisure are at the heart of the government's agenda for schools.

6.0 Conclusion

- 6.1 The general assumption in the Framework for the Disposal of Property is that land will be disposed of at the best consideration reasonably obtainable. This is consistent with the requirements of S.123 of the Local Government Act 1972 under which land can only be disposed of for less than best consideration if the consent of the Secretary of State is obtained. The General Disposal Consent 2003 gives local authorities consent to the disposal at an undervalue in specified circumstances i.e. for the promotion of economic, social or environmental well being. The Council also has its fiduciary duty.

- 6.2 Clearly there is a lack of agreement as to value and such a wide divergence of opinion is not uncommon for development land especially where the planning context is not clear cut. It does go to show that it is very difficult to demonstrate best consideration in the absence of marketing. The lower end of the Council's own value range is c.£3.5m, whilst Gateway have offered £3m inclusive of VAT, effectively c.£2.8m. The following risks also need to be considered:-

- In the absence of dealing with Gateway, marketing may or may not produce a higher figure. Without marketing, it is not possible to determine who is likely to be interested in the land and at what price.
- Marketing would give less certainty of a sale in the near future. Any selected purchaser may not ultimately be able to get planning consent for its particular scheme, or may ultimately not proceed for other reasons. Although approvals through the LSC are still necessary, a sale to Gateway gives greater certainty to the Council of a sale in the near future.
- Working with Gateway at Manor Farm will enable the two parties to co-operate with the sale at Blackbird Road. Although far from clear cut, this could 'save' the Council in the region of £500k to £750k in proceeds from Blackbird Road, or potentially more if Gateway adopt a more aggressive negotiating position. Agreement at Blackbird Road should unlock in the region of £3m of capital receipts for the Council.

- It is understood that the LSC, whose approval is required, will only countenance a purchase of the Manor Farm land at a figure in the region of £2.5m to £3.0m due to its stringent value for money criteria. (Gateway advise that the LSC expect them to use the entire proceeds from their city centre site and that if they do achieve any extra value from their surplus sites, the LSC will claw the additional value back).
- The proposals are supported by CYPS as Gateway will be a key partner in the collaborative planning for the north of the city.
- Gateway's proposals for Manor Farm at present include a community sports hall, pitches and a theatre, all with access to the community. Although it is not possible to quantify the value of these, they will clearly be of benefit to the local community.

Any sale to Gateway will be subject to them obtaining planning consent for their scheme.

FINANCIAL, LEGAL AND OTHER IMPLICATIONS**1. Financial Implications**

See 4.1 to 4.6 of covering report.

2. Legal Implications

See 4.7 to 4.12 of covering report.

3. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting information	References
Equal Opportunities	YES	2.2 + 6.2 5.1 to 5.4 6.2	Improving education standards. Community access to facilities. Site not marketed.
Policy	N/A		
Sustainable and Environmental	N/A		
Crime and Disorder	N/A		
Human Rights Act	N/A		
Elderly/People on Low Income	N/A		

4. RISK ASSESSMENT ANALYSIS

Risk	Likelihood L/M	Severity Impact H	Control Actions (if necessary/appropriate)
1 Planning consent not obtained	M	H	Sale not completed until planning obtained.
2 LSC approval not obtained.	M	H	Sale not completed until LSC approval obtained.
3 Gateway seek to sell on for other use.	L	H	Satisfactory terms of sale negotiated.
4 Capital receipts from Blackbird Road not forthcoming	L	L	In negotiations link sale of Manor Farm with agreement on Blackbird Road.
5. Community facilities not provided.	M	M	Negotiations on terms of sale.

5. Consultations

Consultation with Resources Department – Head of Legal Services
Financial Services

Children and Young Peoples Services Department

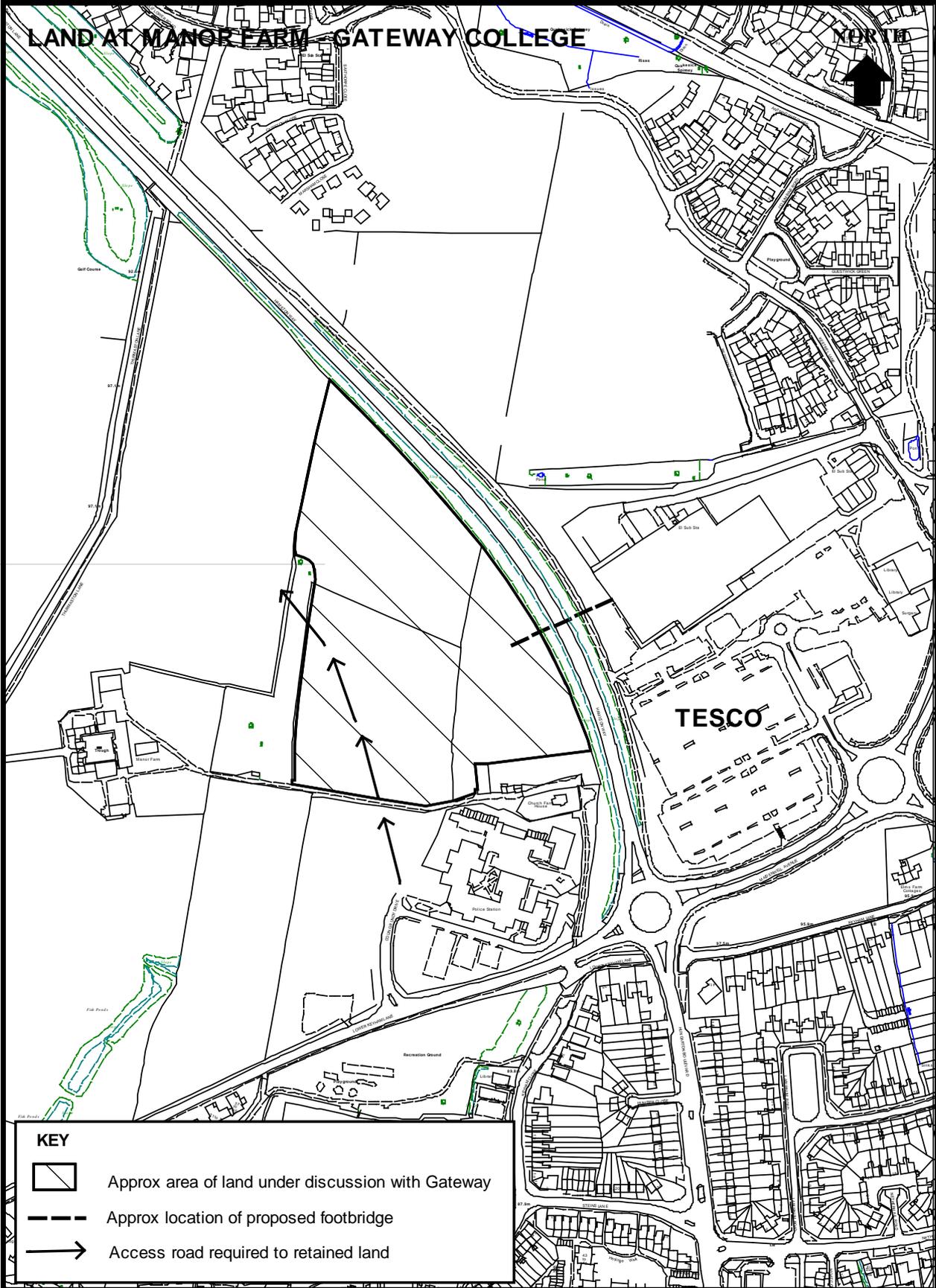
6. Reason Report Marked Not for Publication

This report is marked "Not for Publication" because it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the local Government Act 1972 as amended: i.e. "Information relating to the financial or business affairs of any particular person (including the Authority holding that information)".

7. Report Author

[REDACTED]

Tom Stephenson
Corporate Director of Resources



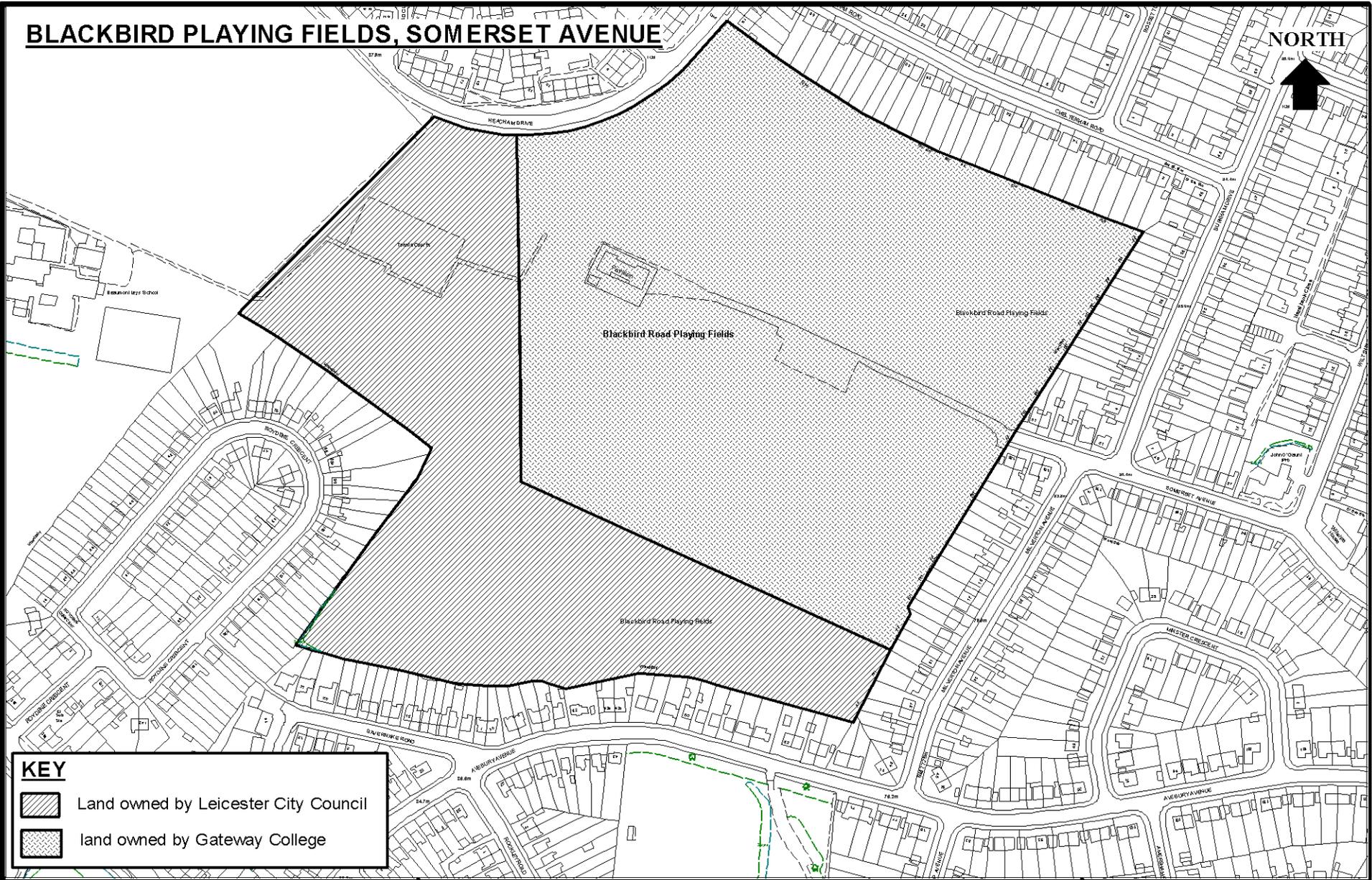
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 CHECKED BY NOE DATE 09/05/2006 SCALE

TOM STEPHENSON
 CORPORATE DIRECTOR OF
 RESOURCES AND TOWN CLERK
 LEICESTER CITY COUNCIL

BLACKBIRD PLAYING FIELDS, SOMERSET AVENUE

NORTH



KEY

-  Land owned by Leicester City Council
-  land owned by Gateway College

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