

CABINET
TUESDAY, 16 JUNE 2026

PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: GA2 Access Land

REPORT OF: Principal Estate Surveyor Enterprise

EXECUTIVE MEMBER: Executive Member - Enterprise

COUNCIL PRIORITY: THRIVING COMMUNITIES / RESPONSIBLE GROWTH / SUSTAINABILITY

1. EXECUTIVE SUMMARY

Site GA2 is a strategic housing site and lies to the north-east of Great Ashby and is allocated for a new neighbourhood of approximately 600 homes. Following approval of the Masterplan a planning application has been submitted under reference number: 25/03080/HYA. As part of the proposals a new access road to the development will be created from Mendip Way and to achieve this the developer will need to acquire land owned by third parties, including the Council.

At the meeting held on 23rd September 2025 Cabinet gave approval to the heads of terms for an option agreement to give the developer a right to acquire land owned by the Council to facilitate access to GA2, in collaboration with the other four owners. However, the heads of terms were subject to notices being published in accordance with s122 & s123 of LGA 1972 and to giving due consideration to objections received.

2. RECOMMENDATIONS

- 2.1. That Cabinet notes that the proposals to appropriate open space for planning purposes and dispose of the open space land has been publicly advertised in compliance with the requirements of s122 and s123 of the Local Government Act 1972.
- 2.2. Cabinet appropriates for planning purposes, pursuant to s122 of the Local Government Act 1972, the land that is the subject of the transaction for the purposes of facilitating the development of the GA2 site including the provision of a new access road and associated works and infrastructure.
- 2.3. That Cabinet delegates authority to the Director: Resources, in consultation with the Executive Member for Resources, to finalise, complete, sign and seal all necessary documentation associated with the transaction, subject to receipt of valuation advice confirming compliance with the Council's duty under section 123 of the Local Government Act 1972 to obtain best consideration reasonably obtainable.

3. REASONS FOR RECOMMENDATIONS

- 3.1. Public notices as required by s122 & s123 of the LGA 1972 have been published and no objections or representations have been received by the deadline of 5pm on 15th May.
- 3.2. The recommendations are made to ensure that access is available to facilitate the development of GA2, a Strategic Housing site allocated in the Local Plan, which will

assist in the delivery of circa 600 new homes and associated facilities including affordable homes.

3.3. Completion of the sale is also expected to generate a capital receipt.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1. For the Council, in its capacity as landowner, not to sell the land and not to properly deal with its obligations under the LGA 1972: This would prevent delivery of the access and development of the site, and a potential capital receipt. This course of action is not recommended.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

5.1. The Executive Members for Enterprise and Resources have been consulted.

5.2. Opposition lead members have been briefed, and Members are more widely aware of the proposed development.

6. FORWARD PLAN

6.1 This report contains a recommendation on a key Executive decision that was first notified to the public in the Forward Plan on the 13th September 2024.

7. BACKGROUND

7.1. The development of site GA2 is part of the Council's Local Plan. Under Policy SP18 of the Local Plan, site GA2 was allocated for a development of approximately 600 homes and associated facilities including affordable homes.

7.2. Site allocation GA2 is within Weston Parish whereas the land required for the access road is within Great Ashby.

7.3. To deliver this development, a new access road from Mendip Way to the site is needed.

7.4. The proposed route of the new access road will require the developer to acquire five parcels of land owned by third parties with one of the landowners being the Council. There is no viable alternative route for the access road.

7.5. Picture Estates Ltd and associated companies and personal interests own the land shown edged red on the plan at Appendix A and are promoting the development of the land in accordance with the local plan allocation. Picture Estates are an unconnected party to the Council. The land Picture Estates require for the access road is shown coloured blue on that plan and different parcels of land are owned by North Herts Council, Croudace, Vistry, the Trustees of the Weston Settlement and Homes England/Stevenage Borough Council.

7.6. The plan at Appendix C shows the Council's ownership edged red. The access land owned by the Council is currently designated as public open space and features a children's playground. To compensate for the loss of the public open space including playground, the planning application proposes the relocation of the play equipment, which will be at the developer's cost, and the provision of additional public open space within the GA2 development.

7.7. At the meeting held on 23rd September 2025 Cabinet gave approval to the heads of terms for an option agreement to give the developer a right to acquire land owned by the Council to facilitate access to GA2, in collaboration with the other four owners. However, the heads of terms were subject to the outcome of Notices being published under s122

& s123 of LGA 1972. The Cabinet decision was recorded under agenda item 19 & 20 of the printed minutes of the meeting.

8. RELEVANT CONSIDERATIONS

- 8.1. The proposed option agreement is to give Picture Estates, or their successors, the right to acquire the land owned by the Council to facilitate the access to GA2, in collaboration with the other four owners. One of the conditions for exercising the option is that planning permission must have been granted for the development. The planning application has been submitted and is in outline for the development of the site but in detail regarding the new access road. It identifies a possible site for the relocation of the playground currently on the Council's land and new areas of public open space.
- 8.2. As it is public open space, section 123 of the Local Government Act 1972 requires the Council to publish notification of its intention to dispose of the land in a local newspaper for two consecutive weeks and to consider any objections that are made before taking a decision to proceed. This process was not to be initiated until the planning application for the development was sufficiently advanced to identify plans for the re-provision of the existing play area and public open space to avoid the risk of legal challenge. Any obligation to dispose of the land was subject to due consideration of the objections received as part of the statutory process.
- 8.3. Once planning permission has been granted, Picture Estates intends to sell the site with the benefit of that permission.
- 8.4. Without all five parcels of land which form part of the access road, the development will not be able to take place. Consequently, there is a joint set of heads of terms between all the landowners and Picture Estates.
- 8.5. The heads of terms propose that all five landowners will grant the developer an option to acquire the land in their ownership in return for an agreed share of the net proceeds of sale achieved by Picture Estates. The share of net proceeds is calculated as a percentage of the development land value, less legal and professional fees. Each landowner will then receive one fifth of this sum, irrespective of the individual land parcel's location or size. This reflects the principle of equalisation as all five parcels of land are required.
- 8.6. To ensure that the Council complies with its statutory obligation to obtain best value for the disposal of the site, Avison Young Chartered Surveyors have been instructed to provide a report confirming that the payment due to the Council represents the best value that could be achieved. This Report should be available shortly after the Cabinet meeting.
- 8.7. All five landowners will sign a collaboration agreement governing co-operation, joint obligations, decision making, dispute resolution and cost/receipt.
- 8.8. The site will not be marketed by Picture Estates before the expiry of the period in which legal challenge could be raised to either the planning permission, disposal of public open space or release of the access road from any restrictive covenants. Further, there will need to be a period for marketing of the site. It could, therefore, be several years before the Council receives a capital receipt.

9. LEGAL IMPLICATIONS

- 9.1. Cabinet, in exercising its functions, has powers to dispose of land or buildings where the consideration is between £250,000 and £2,500,000.
- 9.2. The option arrangement will enable the party that is successful in acquiring Picture Estates' interest to acquire the land needed for the access to the site.

- 9.3. Section 122(2A) of the Local Government Act 1972 requires a local authority intending to appropriate public open space for an alternative use to advertise its intentions in a local newspaper for 2 weeks and to consider objections received.
- 9.4. Section 123 of the Local Government Act 1972 allows a Council to dispose of land in any manner it wishes provided that the consideration is the best that can be reasonably obtained unless the Secretary of State consents to the disposal.
- 9.5. Sections 123(2A) and 127(3) of the Local Government Act 1972 require a local authority wishing to dispose of open space to advertise its intentions in a local newspaper for 2 consecutive weeks and to consider objections received. The s122 & s123 Public Notices were published in The Comet Newspaper on 16th & 23rd April 2026 as per the Final Proof of the advert attached at Appendix B and no objections were received by the deadline of 5pm on 15th May.
- 9.6. In relation to the sites owned by third parties, there is a need for the Council to enter into Deeds of Variation to release obligations imposed under existing section 106 Agreements requiring the land to be used for public open space. This will be tied to the new GA2 planning application which will reflect mitigation measures as part of the new section 106 Agreement.
- 9.7. There are a number of procedures which need to be followed for the disposal of the site to mitigate any risk of challenge, and these will be adhered to once the planning application has been considered. The Council will continue to be advised throughout this process to ensure that the regulatory and statutory framework is fully adhered to.
- 9.8. Under section 122(1) of the Local Government Act 1972 councils "may appropriate for any purpose for which the council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation ...". There is a statutory process which must be followed including consultation and formal appropriation which can only take place after the site has been granted planning permission.
- 9.9. Where land has been appropriated for planning purposes Section 203 of the Housing and Planning Act 2016 (power to override easements and other rights) applies such that the erection, construction or carrying out or maintenance of any building or work on the land (by the council or a person deriving title from the council) is authorised if it is done in accordance with planning permission, notwithstanding that it interferes with certain private rights such as restrictive covenants and easements. The effect of triggering section 203 is that private rights are effectively overridden and converted into a claim for compensation pursuant to s 204. The level of compensation for interference with rights or breach of restrictive covenant is assessed on the basis of the loss in value of the claimant's land as a consequence of the interference or breach of covenant. An important consequence of the operation of Section 203 is that a claimant cannot secure an injunction, to prevent the development from going ahead, their remedy is a claim for compensation.

10. FINANCIAL IMPLICATIONS

- 10.1. The Council's legal & professional fees are being paid for by Picture Estates in the first instance, and the total amount will be deducted from the net proceeds of sale before an agreed percentage is distributed to the five landowners. This avoids the Council paying fees up front and being at risk of abortive costs in the unlikely event that a sale of the site does not complete.

- 10.2. The sale of this site will generate a capital receipt for the Council to assist in funding the overall capital programme. The use of capital receipts reduces the need for borrowing, which in turn reduces revenue costs from interest payments and Minimum Revenue Provision charges. This site will also contribute to providing additional housing in the district. Ultimately this will increase Council Tax income, although that will need to be balanced against the cost of increased service demand, including the direct costs of waste collection.

11. RISK IMPLICATIONS

- 11.1. Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.
- 11.2. The Cabinet decision on 23rd September 2025 was based on the option heads of terms, which stated that the option would be subject to the outcome of the s122/s123 processes. Public notices as required under s122 & s123 of the LGA 1972 have been published and no objections or representations have been received. This statutory process has, therefore, been followed.
- 11.3. Although the option agreement is due to be signed by all five landowners these are subject to contract and formal approval. The Option Agreement is still being negotiated by the solicitors acting for the 5 landowners involved and is not yet in a final approved form. There is a possibility that the option agreement and collaboration agreement will not be concluded. Should that happen, it may be necessary to consider using compulsory purchase powers, but this appears to be unlikely as matters currently stand given that each party is due to receive a substantial sum from the sale of their land, which has a low existing use value.
- 11.4. Although Site GA2 is an allocated site and a Strategic Masterplan Framework has been approved and adopted, Picture Estates still needs to obtain planning permission, and the application is currently under consideration.
- 11.5. If the proposed option agreement is signed this will confirm that the responsibility and liability for any additional risks that may arise from the appropriation of the land or payment of fees rests with Picture Estates.
- 11.6. The use of section 203 of the Housing and Planning Act 2016 may involve the payment of compensation to third parties based on the loss in value of the land that had the benefit of the rights/covenants that exist. The value will be provided by an independent valuer appointed by the Council and the proposed option agreement will confirm the responsibility and liability for the valuer's fees and payment of any compensation rests with Picture Estates.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. There are no equalities implications arising from this report.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and "go local" requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known Environmental impacts or requirements that apply to this report. The environmental Impact of developing site GA2 will be considered as part of the planning application process for the site giving due regard to Biodiversity Net Gain requirements for improvements to the natural environment.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 The Council has appointed external solicitors at the initial cost of Picture Estates. It is intended that this matter will be dealt with by the Estates team in conjunction with external solicitors and valuers. Should it be necessary for the Council to use other external consultants either because of a lack of resources within the Council or for reasons of expediency the cost of this will be covered by Picture Estates.

16. APPENDICES

- 16.1 Appendix A – Land owned or controlled by Picture Estates.
16.2 Appendix B – Public Notice as published on 16th & 23rd April 2026 in The Comet Newspaper.
16.3 Appendix C - Plan showing land owned by North Herts Council to which the Public Notice relates.

17. CONTACT OFFICERS

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18. BACKGROUND PAPERS

- 18.1 Masterplan - [Agenda for Cabinet on Tuesday, 19th November, 2024, 7.30 pm | North Herts Council](#)
- 18.2 Previous Cabinet report - [Cabinet Report item 20 23rd September 2025](#)