

Report of	Meeting	Date
Liberata Property Services (introduced by Executive Member for (Resources, Policy and Performance)	Executive Cabinet	21 June 2012

LAND REAR OF 52 – 78 FAIRVIEW DRIVE 3 AND 4 BARN VIEW AND 11 TO 17 MAYTREE COURT, ADLINGTON NOTIFICATION OF ONE OBJECTION TO DISPOSAL OF OPEN SPACE

PURPOSE OF REPORT

- Following on from the Executive Cabinet on the 29 March 2012, to advise Members of one objection received to the disposal of open space as garden extensions which has been received from a local dog-walker who regularly uses the land to the rear of properties 52 – 80 Fairview Drive, 3 & 4 Barnview and 11 – 17 Maytree Court.
- To advise Members that all residents at the above location have each responded, requesting that they are able to purchase a parcel of land. Where a resident has not responded or does not wish to acquire a garden extension neighbouring residents with appropriate access have requested to buy the relevant parcel instead. A notice advertising the disposal of the open space was posted on the site and in the local press on 2 May 2012 and on 9 May 2012 in order to give any potential objectors the opportunity to object by 23 May 2012.

RECOMMENDATION(S)

- (i) That the previous decision to offer the land currently designated as open space and offer to each individual occupier who has expressed an interest is progressed as approved at the Executive Cabinet on the 29 March 2012;
 - (ii) That the previous authority for the Head of Governance being authorised to approve the terms and arrange completion of the sale of each parcel of land proceeds; and to approve the terms of a deed of release or modification with Westbury Homes Limited (a dormant subsidiary of Persimmon Homes who own a covenant restricting the use of the land to public open space) is progressed and a planning application submitted as previously approved;
 - (iii) The objection received as detailed later in the report is noted.

EXECUTIVE SUMMARY OF REPORT

- It was approved at the Executive Cabinet on the 29 March 2012 for all the area of land shown edged red on the attached plan to be divided into garden extensions and offered to each individual occupier of the above properties and would therefore no longer serve as Public Open Space. The land will become enclosed by the garden extensions and prevent dog walkers from using the land as a walk way if the decision for the garden extensions is to proceed.
- The original intention of the developer, Persimmon Homes was to provide a buffer landscaped zone which was not progressed as reported in the Cabinet Report on the 29 March 2012. The reason being was because it was thought that the land would be required

for a surface water sewer by United Utilities. The land has instead now become a haven for dog walkers with concerns over dog-fouling and security issues.

6. As the residents have all since responded positively it means that if the garden extensions proceed, the site as a whole will become fenced in at both ends up to the railway fence. The site would become secure and no longer have any detrimental environmental impact for adjoining residents.
7. When the Executive Cabinet gave its approval on the 29 March 2012 it was not known if any objections would be received, and the Head of Governance was given authority to approve the details of any sales of individual garden extensions, subject to consideration by members of any responses received to the statutory advertisement of the proposed disposal.
8. The current position is that one written objection has now been received from Mr. Roger Smith of 10 Heathfield, Heath Charnock. Mr. Smith has stated in his letter dated 10th May 2012 that he regularly uses this land for dog walking and finds this parcel of amenity land to be a valuable part of a larger circular walk. He suggests that improved security measures to the homes could be provided such as alarms and security lighting rather than the land being sold to residents. He does not mention any issues with dog-fouling in his letter.

Confidential report Please bold as appropriate	Yes	No
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Key Decision? Please bold as appropriate	Yes	No
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REASONS FOR RECOMMENDATION(S)

9. The sale of the garden extensions will alleviate the problems associated with the public using the land as a walk-through with dogs fouling on the site and alleviating security issues, as previously approved. All residents have responded so there should not be any landlocked gaps left over.
10. There could potentially be receipts from the sale of the proposed garden extensions and costs as described in the previous report (subject to payment of consideration for release or modification of the open space covenant payable to Westbury Homes).
11. Chorley Borough Council will no longer be required to maintain this land. This will result in a saving for the Council's maintenance budget.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

The following have already been mentioned in the previous Cabinet Report:

12. A decision not to allow the parcel to be used for separate garden extensions will result in the land remaining open to the public for a walk-through with its associated safety issues and dog fouling;
13. Providing a tree wooded is no longer proceeding since the surface water sewer was subsequently not provided in this location and the residents have chosen to request garden extensions.
14. A Gating Order under the Highways Act is not available as the land is open space rather than a public highway. Such orders are only possible in relation to public highway. An alternative "alleygating" scheme to be funded by adjacent residents would involve enclosing the open space with keys provided to residents, the emergency services and United Utilities. This

process was not completed by the resident carrying out the canvassing of all the other residents.

CORPORATE PRIORITIES

15. This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	√
Safe Respectful Communities	√	Quality Community Services and Spaces	
Vibrant Local Economy		Thriving Town Centre, Local Attractions and Villages	√
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			

BACKGROUND

16. The residents of 52-78 Fairview Drive, 3 and 4 Barn View and 17 Maytree Close have all responded positively to the offer of garden extensions prior to the Executive Cabinet Report of the 29 March 2012. As part of the first stage of the process following this approval, notices have been provided on site in addition to advertising under S123 (2A) of the LGA 1972 for a three week period in a local newspaper with a closing date of 23 May 2012.
17. Only one objection has been received from Mr. Roger Smith, of 10 Heathfield, Heath Charnock who has sent in a detailed letter dated 10 May 2012 expressing his wishes that this land remains as Public Open Space and is therefore still able to be used as a walkway for the public and owners of pets. He has stated that this land has been used by the general public and provides a valuable section of a very popular, secure, circular dog walk through the land, over the railway crossing and then the A6 highway and via Allanson Hall Farm. This then provides access back along the Leeds Liverpool canal town path to Heath Charnock. Mr. Smith goes onto state that if this land was not available then local pet owners would have to walk through the estate roads instead before being able to join the Public Open Space at Fairview Community Centre.

IMPLICATIONS OF REPORT

18. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	√	Customer Services	
Human Resources		Equality and Diversity	
Legal	√	No significant implications in this area	

COMMENTS OF THE DIRECTOR OF PEOPLE AND PLACES (all as noted in the previous report)

19. The strip of land in question is not particularly suitable as a public open space amenity and currently provides a narrow passage for dog walkers. Additionally due to its location adjacent to a railway embankment the area has encouraged the congregation of groups of youths from time to time leading to low level anti-social behaviour reports and a reduction of feelings of safety reported by some residents.

Disposal of the land into parcels of garden extension for householders who adjoin the land will not adversely impact on public open space provision in the area and will reduce the

Council's maintenance commitment on the estate. In addition the disposal will remove the strip as an area for dog walkers and the congregation of youths.

COMMENTS OF THE STATUTORY FINANCE OFFICER

20. At the moment terms for the sale have not been agreed. Anything agreed will be over and above what we have in budget and as such will be a windfall, but is only likely to be a small sum.

COMMENTS OF THE MONITORING OFFICER (HEAD OF GOVERNANCE)

21. There are no legal reasons why this transfer cannot take place but it would be subject to any encumbrances registered against the title. The requirement to advertise the proposed disposal of open space under section 123[2A] of the Local Government Act 1972 is addressed within the body of the report. The purpose of this report is to report this objection to members to decide whether to proceed with the same proposal or in an amended form or to withdraw it completely.

CHRIS MOISTER
HEAD OF GOVERNANCE

BACKGROUND PAPERS:

Representation from Mr Roger Smith which can be inspected at the Town Hall during normal working hours

Report Author	Ext	Date	Doc ID
Alison Davenport	515233	13 June 2012	***