

OVERVIEW AND SCRUTINY COMMITTEE

THURSDAY, 5TH MARCH 2015, 6.00 PM
COMMITTEE ROOM 1, TOWN HALL, CHORLEY

Re-arranged meeting of the Overview and Scrutiny Committee that was due to be held on 23 February 2015

AGENDA

APOLOGIES

1 DECLARATIONS OF ANY INTERESTS

Members are reminded of their responsibility to declare any pecuniary interest in respect of matters contained in this agenda.

If you have a pecuniary interest you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

2 CONSIDERATION OF CALL-IN REQUEST: PROPOSED SALE OF LAND TO THE REAR OF 18A THE FARTHINGS, ASTLEY VILLAGE, CHORLEY

(Pages 3 - 10)

To consider a request by Councillor Mark Perks for the following decision of the Executive Member (Resources) on 5 February 2015 to be called in:

Proposed Sale of Land to the Rear of 18a The Farthings Astley Village
Chorley PR7 1TP

A copy of the call in request form which includes the call in procedure is attached, along with a copy of the above report which was approved by the Executive Member (Resources) on 5 February 2015.

3 ANY URGENT BUSINESS PREVIOUSLY AGREED WITH THE CHAIR

GARY HALL
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Overview and Scrutiny Committee Councillor John Walker (Chair), Councillor June Molyneaux (Vice-Chair) and Councillors Eric Bell, Julia Berry,

Charlie Bromilow, Doreen Dickinson, Robert Fynamore, Margaret France, Mike Handley, Mark Jarnell, Matthew Lynch, Greg Morgan, Alistair Morwood and Kim Snape.

If you need this information in a different format, such as larger print or translation, please get in touch on 515151 or chorley.gov.uk

REQUEST FOR CALL-IN OF EXECUTIVE DECISION

Proposed sale of land to the rear of 18A The Fairings

I wish to register a request for the following Executive decision to be called in for reconsideration prior to implementation. My objection to the decision/proposal is set out below.

Decision taken by Executive Cabinet Date published _____

Decision taken by Executive Member Date published 5-2-15
(please tick appropriate box)

The Objection and Alternative Decision/Proposal

Continuation on a separate sheet if necessary (500 words maximum)

The Objection is: *The land is open space & a protective barrier. The sale of this land had previously been rejected on the grounds that the land forms a formal land barrier from the pipework in Astley Village and the Parish Council had objected & both Borough Cllrs objected.*

The alternative decision/proposal is: *The report does not mention this information. The money raised also does not appear to be allocated to village provision. That the sale is not approved, & the land sale queried.*

The reason for the alternative is:

If sale is approved on the current footprint the funding received is allocated to S106 funding for provision in Astley Village.

Name: <i>Mark Perks</i> (please print)	Signature: <i>Mark Perks</i>	Date: <i>11/2/15</i>
Address: <i>8 Bracken Close Chorley PR6 0EJ</i>	Daytime Tel No: <i>01257 279209</i>	Mobile:
	Email: <i>mark.perks@chorley.gov.uk</i>	

I am (please tick as appropriate)

- Chorley Councillor A resident of the Borough
- The Chair or Secretary of a voluntary group with an interest in the Borough
- A proprietor or director of a local business situated in the Borough

Please complete and return this form to the Democratic Services Manager, Town Hall, Chorley PR7 1DP. Alternatively you may email the form to carol.russell@chorley.gov.uk Should you have any queries about completing this form please telephone 01257 515034.

Guidance Notes

1. A request for the call-in of a decision can be made by members of the local community and Borough Councillors under the Council's 'call-in' procedure for executive decisions that have not yet been implemented to be reconsidered by the person or body that made them.
2. Guidance as to what constitutes an executive decision can be found on the Council's Website or from the contacts listed. Decisions that relate to individual applications for licences or planning permission cannot be called in as they are not executive decisions.
3. Call-in requests must be made in writing and submitted to the Democratic Services Manager at the address given overleaf within 5 working days of the relevant decision being published. All requests must state the decision reference number, title, and the reasons for the objection to the decision. An alternative decision or proposal must be presented for consideration.
4. Call-in requests will be acknowledged within 5 working days of receipt. Decisions regarding the request will be notified to the person who made the call-in request by the Democratic Services Manager within five working days of the decision being taken.
5. All requests for call-in are considered initially by the Chair of Overview and Scrutiny Committee who will decide if the request is valid. Any requests considered to be frivolous, defamatory, incomplete or otherwise outside the scope of the call-in procedure will be rejected. Where a call-in is deemed not appropriate, it could be that a request for a scrutiny inquiry is an alternative form of action.
6. If the Chair accepts the call-in request, an Overview and Scrutiny Committee will be arranged consisting to consider if the decision should be called-in. The person who made the request will be informed and is eligible to attend the meeting to give representations. The decision maker will also be invited to attend the meeting along with the appropriate officers. If the decision was made by the Cabinet, the Leader or Deputy Leader will attend the meeting.
7. Where a decision is referred back to the original decision maker, no steps shall then be taken to implement the decision until it has been reconsidered by the body or person who made it. If a decision is referred to Council, the Council will decide at its next meeting whether to review or scrutinise the decision, and if so, when and how. In this event, there is however no obligation to postpone any implementation of the decision.
8. If the Council does decide to review or scrutinise the decision, the Council will only have the power to express views or make recommendations to the body or person who made it, unless it was not in accordance with the Policy and Framework or was contrary to or not wholly consistent with the Budget.
9. Where the Overview and Scrutiny Committee refers a decision back, the decision maker is under an obligation to reconsider the original decision in light of the representations made. There is no requirement however, to change the decision. Following such reconsideration, the decision, with or without modification, may be implemented and it cannot be called-in again.

Call-in request: Accepted Rejected

Reason for rejection: _____

Signed: J.P. Walsh
 (Chair of Overview and Scrutiny Committee)

Date: 12.2.15



Report of	Meeting	Date
Chief Executive (Introduced by the Executive Member Resources)	Executive Member Decision	January 2015

PROPOSED SALE OF LAND TO THE REAR OF 18A THE FARTHINGS ASTLEY VILLAGE CHORLEY PR7 1TP

PURPOSE OF REPORT

1. To report representations received in response to notices published under the Local Government Act 1972 Section 123 [2A] of the Council's intention to dispose of land to the rear of 18a The Farthings Astley Village Chorley PR7 1TP.

RECOMMENDATION(S)

2. That consideration is given to the objection lodged by Cllr Perks on 18th August 2014 and instructions are confirmed whether or not to progress the sale of land.
3. In the event that a decision is made to progress the sale of the land, that the transfer imposes a restriction on use to garden land (but permitting sheds, greenhouses, gazebos etc.). Garden land use has in principle been agreed with the prospective purchasers after they modified their original intention to use part of the open space for a garage.

EXECUTIVE SUMMARY OF REPORT

4. The Council owns an area of open space to the rear of properties on The Farthings Astley Village.
5. A request has been received from the resident of 18a The Farthings to purchase part of the area (shown edged red on the attached plan) to extend the rear garden of their property
6. This matter has been approved by Executive Member Decision dated 13th December 2013.
7. Approval was granted to declare the land surplus to Council requirements to enable a sale, authority granted for the negotiation of the terms for the sale of the land and for the placing of advertisements/notices in accordance with the provisions of the Local Government Act 1972 Section 123[2A]
8. Terms have now been agreed and the intention to dispose has also been published in the local press and on site in accordance with the 1972 Act, with the closing date for objections or representations set for 13th August 2014.
9. One objection to the sale has been received in response to the notices published. The objection was made by e-mail and received on 18th August 2014
10. Although the objection period had expired by the time that Cllr Perks e-mailed the Head of Governance the lapse of time of 5 days was not great. In the interests of reflecting the ward councillor's views about the proposed disposal it is recommended that discretion is exercised to consider this late objection.

Confidential report Please bold as appropriate	Yes	No
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Key Decision? Please bold as appropriate	Yes	No
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Reason Please bold as appropriate	1, a change in service provision that impacts upon the service revenue budget by £100,000 or more	2, a contract worth £100,000 or more
	3, a new or unprogrammed capital scheme of £100,000 or more	4, Significant impact in environmental, social or physical terms in two or more wards

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

- 11. So that the Council’s intentions regarding the sale of the land might be confirmed and the resident might be advised as to whether the sale of the land for garden use might proceed.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 12. None

CORPORATE PRIORITIES

- 13. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	x	A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	

BACKGROUND

- 14. Executive Member Approval was granted on 13th December 2013 declaring land to the rear of 18a The Farthings surplus to Council requirements and authorising the sale to the resident for garden and garage/parking use.
- 15. The land is held as part of the Council’s open space portfolio in Astley Village. As such there is a requirement for the Council to give notice of its intention to dispose of the land by publishing notices on site and in the local press to give the opportunity for members of the public to comment on the proposed sale.
- 16. Advertisements were duly placed in the local press and notices posted on site in August 2014.
- 17. One comment was received from Cllr Perks on 18th August 2014 as follows:

“I wish to lodge my objections and concerns regarding the sale of open space land to the rear of 18a, b & c The Farthings in Astley Village.

This land is a wooded copse that lies within a [sic] forms a boundary between the properties and Westway/Southport Rd area and I am concerned that if sold issues will arise from trees being cleared, the [sic] becoming more open in aspect and it’s [sic] alters the general appearance of the open/green space/wooded area of this residential area.

I believe the sale of this land is connected to a planning application which is causing some concerns in this part of the village”

- 18. As part of the original request the area to be purchased did include an area of the existing shelter belt but subsequently the site area was reduced to the area shown edged red on the attached plan to exclude trees and shrubs from the sale.

19. The area forms part of the larger open space provision in the area but is not openly accessible to members of the public.
20. The trees/shrubs forming the shelter belt between the land and the adjoining road (West Way serve as a buffer between West Way and the estate and would be retained in Council ownership if the sale were to proceed.
21. The proposal to incorporate the land into the rear garden of 18a The Farthings has been considered as part of an application for change of use recently submitted to the Council's planning office for consideration – ref 14/00879/FUL. The matter has been referred for Development Control Committee consideration and has been approved for a first floor extension and single storey rear extension. The structures will not affect the open space land subject of the proposed disposal. The open space is only subject of an application for a change of use to garden land.
22. Options available are:
 - (i) Progress sale of site approved for disposal on 13 December 2013
 - (ii) Progress sale of site approved for disposal on 13 December 2013 with covenants imposing a restriction on use e.g. residential garden land only. Clearly if such restrictions were in conflict with the intentions of the party hoping to acquire the land and prove unacceptable then the disposal might not proceed anyway.
 - (iii) Withdraw part or all of site from proposed disposal and retain as open space in the ownership of the Council.

IMPLICATIONS OF REPORT

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

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

24. As noted in the original report for approval to dispose of the site, the land is surplus to Council requirements and would generate a capital receipt in the region of £6,000, which could be used to finance future capital expenditure or to repay debt.

COMMENTS OF THE MONITORING OFFICER

25. The legal requirement contained in Section 123[2A] of the Local Government Act 1972 to advertise the proposed disposal and consider any objections is contained in the body of the report.
26. A decision by the Executive Member in the light of the objection from Councillor Perks can take into account matters which would not be a material planning consideration. However such decision must still be reasonable. It is reasonable to impose restrictions on the use of the land by way of private covenant. .
27. Reasons should be recorded whatever decision is taken.
28. The Council is under a legal duty to obtain the best possible consideration for the sale of the land contained in the Local Government Act 1972 as well as being subject to a best value duty contained in the Local Government Act 1999.

GARY HALL
CHIEF EXECUTIVE

Background Papers			
Document	Date	File	Place of Inspection
E-mail from Cllr Perks	18.08.14		Town Hall

Report Author	Ext	Date	Doc ID
Catherine Jagger	5724	03/02/2015	CMJ/AST/THEFARTH(18A)

Following careful consideration and assessment of the contents of this report, I approve the recommendation(s) contained in Paragraph 2 of the report in accordance with my delegated power to make executive decisions.



Dated 5 February 2015

Councillor Peter Wilson
Executive Member (Resources)



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1:1,250

**Land to rear of 18A The Farthings,
Astley Village,
Chorley**



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