

Portfolio Holder Decision

Date of Meeting: No earlier than 15 August 2018

Report Title: Proposed disposal of Public Open Space land at Longridge, Knutsford.

Portfolio Holder: Cllr Arnold - Portfolio Holder for Planning, Housing and Regeneration

Senior Officer: Frank Jordan – Executive Director- Place

1. Report Summary

- 1.1 On the 10 October 2017, Cabinet considered a report exploring the potential for enabling access to a development site at Longridge, Knutsford known as LPS 38 in the Local Plan. The report set out options and issues in respect of a thin strip of land subject to a covenant (referred to as the Green Land) and the disposal of a strip of land to enable access across other land (referred to as the Blue Land). These lands are shown edged green and blue respectively on the attached plan at Appendix 1. LPS 38 is shown pecked in black and the strip of land crossing the Blue Land is indicated by a blue dashed line on the same plan.
- 1.2 The detail of the Cabinet decision from 10 October 2017 is set out in Appendix 2.
- 1.3 The intention to dispose of part of the land delineated in blue and the land delineated green was advertised in the local press pursuant to s123 of the Local Government Act 1972. A summary of the representations received as part of this process is provided in appendix 3.
- 1.4 Appendix 8 provides a report which sets out the further work undertaken in relation to the covenant effecting the Green Land (as directed by Cabinet).
- 1.5 Any further comments provided to the Council during the period this report has been made available to the public will be presented to the decision maker.

- 1.6 If approved, the land that would be disposed would be the Green Land and part of the Blue Land shown on the plan in Appendix 1. The area that is proposed to be disposed of is described indicatively as a blue dashed line on the plan and is indicatively circa 4% of the Blue Land. It is to be noted that the precise area of this land will be determined by the planning process.
- 1.7 If the disposal of the subject land is approved and the development of LPS 38 is delivered, the following benefits (subject to planning) could be achieved:-
- Circa 225 homes allocated under the Local Plan,
 - Provision of significant public open space
 - Development of a sustainable and accessible residential site in Knutsford
 - The developer would be able to design a scheme that enhances the overall provision and quality of public open space in the locality,
 - Replace the public open space land lost to enable access to LPS 38
 - Deliver a capital receipt
- 1.8 The purpose of this report is to provide all the relevant information, including the representations made in response to the intention to dispose of the stated land and those made during the publication of the draft report, so that the Portfolio Holder for Planning, Housing and Regeneration can decide whether or not to dispose of any or all of the Green or Blue land.

2. Recommendations

- 2.1. Following due consideration of the further work undertaken with regard to taking access to LPS 38 over the Green Land and giving due consideration to the objections and representations received as a result of the statutory process of advertising the Council's intention to dispose of the land in question and giving due consideration to any further representations made during the publication period of this report, it is recommended that the Portfolio Holder;
- 2.1.1. Decides whether to authorise the freehold disposal of: -
- (a) part of the Blue Land for the purposes of providing access and
 - (b) any other necessary interests in part of the Blue Land only
- for the purposes of providing access, installation and use of services to LPS 38 together with ancillary uses consistent with an access road such as, but not limited to, landscaping and constructing the access road.

- 2.1.2. Decides whether to authorise the freehold disposal of the whole or part of the Green Land and/or the grant of rights in respect of the installation, connection and use of any services over the Green Land.

3. Reasons for Recommendations

- 3.1 Members of the public have been given the opportunity to respond to the advertised proposal to dispose of the public open space Blue and Green Land. All responses are attached at Appendix 3. All personal information and any information by which any person making an objection could be identified have been redacted. All objections and representations received are attached for consideration by the decision maker.
- 3.2 A majority of respondents (circa 85%) indicated that they had no objection to the disposal of the Green Land (subject to any covenants or restrictions on the land being discharged by agreement with any relevant parties and or beneficiaries). The unusual thin shape of the Green Land is such that it does not afford significant practical use as a public open space that most residents would recognise, although the land is crossed by permissive paths and a public footpath.
- 3.3 The disposal of the Green Land provides an opportunity to remove a barrier between the proposed development and the Longridge Estate. Including this land would enable the opportunities that could be created by this to be explored at the planning stage and incorporated in the development of LPS38.
- 3.4 The area of the Blue Land (which is indicatively shown as a blue dashed line) that would be lost as a consequence of the disposal is anticipated to be circa 4% of the Blue Land, but this is subject to planning requirements. As part of the planning process this land would be replaced within the scheme such that, overall, no public open space would be lost. The proposal would also allow the remainder of the Blue Land to continue in its present use, potentially subject to service easements, which is not uncommon on open space and would not affect residents' ability to enjoy the remaining land as public open space once completed.
- 3.5 The proposed scheme for the development of LPS 38 would, if implemented, allow the site to be brought forward for residential use. This would support the Local Plan Strategy (LPS) requirement to deliver controlled housing growth within the Borough.
- 3.6 Clause 4 iii of Policy SE6 (Green Infrastructure) of the LPS requires new developments to provide adequate open space. It also requires development to contribute to the provision of outdoor sports facilities in line with Policy SC1 and SC2. New developments should meet the development plan policy requirements for public open space.

- 3.7 It is anticipated that, as part of the development of this site, in the region of 20 acres of new public open space would be secured. This would significantly enhance the overall local provision of public open space for the benefit of all residents of Knutsford. In addition, Local Plan policy protects existing open space and playing fields. Only in circumstances where the land in question is surplus to need, or equivalent/improved provision is made, would a loss of open space not give rise to a conflict with development plan policy and planning policy. There would be a need to fully address this through the planning process.

4. Other Options To Consider

- 4.1 **Decide not to dispose of the public open space land.** If the disposal is not approved then the benefits outlined with paragraph 1.7 of this report will not be achieved. It is likely that the Council would have to consider fresh allocations within the Knutsford area for housing as part of the second phase of the Local Plan and this could have an impact on the Green Belt.
- 4.2 **Dispose of the Green Land only.** Following the Cabinet decision on 10 October 2017, the Council explored further options for facilitating access to the site over the covenanted Green Land. The report prepared as a result of this work can be found at Appendix 8. It found that this option was not a realistic option and would not be a viable solution to the issue of access to the development site, LPS 38. As a result, if only this land was disposed of there is no real prospect that the development could proceed and taking this decision would be similar to not disposing of any land.
- 4.3 **Dispose of the strip of Blue Land only** (shown as blue dashed line). This would create the certainty needed to bring forward a planning application and the ultimate development of LPS 38. However, this would also mean that a potential barrier between the development site and Longridge would not be removed. By retaining this land, it will remain as such and the likelihood would be that the new scheme would 'turn its back' on Longridge with the effect that the respective housing areas would not be well integrated.

5. Background

- 5.1 The subject land measures a total of circa 7.5 acres and is located off Longridge and North Downs, Knutsford, situated circa 0.5 miles to the east of Knutsford town centre on the edge of the settlement boundary.
- 5.2 The Green Land is circa 0.9 acres of land consisting of a thin strip of overgrown land running parallel to Longridge. The Blue Land consists of circa 6.6 acres of land and consists of grassland and hedges. It is proposed that only a small piece of this land would be disposed of. Land adjacent to the Green Land and the Blue Land has been allocated for new housing (Site LPS 38) under the Local Plan adopted on the 27th July 2017.

- 5.3 The subject land is open space (the Green Land) and designated public open space (the Blue Land). Although the Green Land is not designated as open space in the Council's Local Plan assessment, the nature and the customary use of that land is such that it is appropriate to treat the land as open space and consequently to consider the proposed disposition in the context of the statutory procedure for the disposal of public open space. The Blue Land is designated as Green Belt. This is a matter for consideration as part of the planning process and not an issue for consideration as part of the statutory process for the proposed disposal of public open space. Similarly the Green Land is subject to a covenant restricting its use as open space, but this is not an issue for the statutory process for the proposed disposal public open space.
- 5.4 Given that the Council wishes to minimise the loss of public open space it was proposed to advertise the Blue Land as a proposed disposal of public open space and then as part of the planning process define the exact extent of the land that would be disposed of. This would minimise the extent of the land that is proposed to be taken. Not to do this would mean that a larger area of the Blue Land would be disposed of as the exact area needed to enable access would be defined at a later date by the planning process. However it is anticipated that c4% of the Blue Land would be affected.
- 5.5 Under section 123 of the Local Government Act 1972 (as amended by the Local Government Planning and Land Act 1980) the Council published public open space disposal notices for two consecutive weeks in the local press to confirm its intention to dispose of the land. This allowed all interested parties to comment on or raise any objections to the proposed disposal and the Council must consider the responses in accordance with the statutory process as set out in that legislation. The first advertisement was published in the Knutsford Guardian, a newspaper circulating in the Knutsford area, for two consecutive weeks on 23 November 2017 and again on 30 November 2017 and the deadline for objections / representations was 15 December 2017.
- 5.6 As a result of feedback from residents, an amended plan (see Appendix 4) was prepared and consequently, further notice was placed in the Knutsford Guardian. This plan showed a reduced subject area focused on the specific part where the strip of land is located which it is proposed to dispose of. Although the land potentially affected fronts onto Longridge, the second notice referred to both Longridge and North Downs as feedback in response to the first notice indicated the subject land may not be clear to residents from the title used in the notices, particularly those of North Downs. The notice was advertised for a further two consecutive weeks in the 14 December 2017 and 21 December 2017 editions and the deadline for objections / representations was 19 January 2018. All communications received whether in response to the first or to the second set of notices are being given due consideration and have been included in Appendix 3 of this report. As a result of the amended publications we do not believe that any interested parties have been disadvantaged.

- 5.7 In addition to this statutory requirement, the Council also made the information available at its Westfields office and on the Council's web site and briefed Knutsford Town Council in relation to the notices.
- 5.8 The Council received 185 representations as part of the process. A copy of the redacted letters can be found in Appendix 3. These have been collated and summarised in Appendix 5. A list of objections (redacted) can be found in Appendix 6 and a summary of grounds for objection and representations is located in Appendix 7.
- 5.9 151 of the representations were based on a standard format letter objecting to the proposal, 6 were amended versions of the standard letter, but were substantially similar to the standard letter and 28 prepared their own letters of objection. The main points raised in the objections to the proposed disposal of land are set out below and are discussed in detail in Appendix 5.
- Public open space contributes to social well being.
 - Relocating public open space would make it less accessible to local residents.
 - The subject land is used for recreation purposes (including football).
 - The subject land is used regularly for dog walking.
 - Loss of wildlife habitat.
- 5.10 The majority of the correspondence focused on the loss of the Blue Land and included some factors such as objections to increased traffic movement and planning matters. These are taken to be references to the proposed development rather than to the actual loss of public open space and therefore are not factors which can be addressed as part of the statutory process for the disposal of public open space. The concerns of residents as to any proposals for development of land must be a matter for the Council in its capacity as a local planning authority and fall to be considered as part of the planning process.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. The Council may not dispose of any land which is public open space unless it has advertised the proposed disposal in accordance with Section 123 of the Local Government Act 1972 (as amended by Section 118 of the Local Planning and Land Act 1980) and has given consideration to all objections and representations received in response to such advertisements.

6.1.2. If the decision is made to dispose of the land then:-

- 6.1.2.1. In accordance with section 123 of the Local Government Act 1972, the Council is under an obligation to obtain the best consideration reasonably obtainable upon the disposal of its property.
- 6.1.2.2. There will be a requirement to review terms of sale when they are prepared to ensure any issues regarding best value, procurement, and/or state aid are resolved. Terms of sale will also need to reflect any easements and rights for both the land to be disposed of and that retained by the Council. Issues may include rights to light/air, open space and restrictions on building use or development.
- 6.1.2.3. The Localism Act 2011 introduced the General Power of Competence, which allows the Council to do anything an individual can do, provided it is not prohibited by other legislation. These powers have replaced the previous wellbeing powers; however, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles.
- 6.1.2.4. The Council has a fiduciary duty at all times to the taxpayers and must fulfil this duty in a way that is accountable to local people.

6.2. Finance Implications

- 6.2.1. The sale of land would generate a capital receipt for the Council and reduce a maintenance liability.
- 6.2.2. The sale of this land would have minimal impact on the maintenance budget. The liability for maintenance would cease and be the responsibility of the new landowner.

6.3. Policy Implications

- 6.3.1. If approved the disposal would (subject to planning) facilitate a residential development providing enhanced local facilities that is in keeping with the locality. It will also support the Local Plan allocations and housing land supply as LPS 38 allows for a residential allocation for 225 dwellings.
- 6.3.2. The Council has a duty to maintain public open space and to consider objections made to its proposed disposal. Consequently it must

carefully consider all objections and the impact of loss of public open space before taking a decision as to whether that land should or should not be disposed of. The Council has followed the statutory process under Section 123 of the Local Government Act 1972 (as amended by the Local Government Planning and Land Act 1980).

- 6.3.3. As part of the development proposal additional public open space will be created and Clause 4 iii of Policy SE6 (Green Infrastructure) of the Local Plan requires new development to provide adequate open space.

6.4. Equality Implications

- 6.4.1. There are no direct implications for equality.

6.5. Human Resources Implications

- 6.5.1. There are no direct implications for human resources.

6.6. Risk Management Implications

- 6.6.1. Any such disposal would be conditional upon receipt of planning consent for housing with access through land allocated as existing open space within the Green Belt. If planning permission is not granted for any reason the disposal will not proceed.
- 6.6.2. The Council's statutory duties including its position as the Local Planning and Highways Authority are entirely separate to its duties as land owner relating to the disposal. The consideration of any planning application would be entirely separate from the Council acting in its land owner capacity.
- 6.6.3. As set out in the Cabinet Decision the intention is that the amount of the subject land disposed of to enable access shall be kept to the minimum amount required for the implementation of the provision of access and services to Local Plan Site LPS 38. The approach taken by the Council will achieve this as only a strip of the Blue Land will be taken to enable access. Based on indicative plans prepared by the promoter of LPS 38, c4% of the Blue Land would be required. However this is subject to a detailed design process which, in turn, will be reflected in any planning application, which will determine the area of land required.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People

6.8.1. The proposal minimises the loss of public open space in the locality and this lost open space will be replaced as part of the planning process. There is also the opportunity through the planning process to increase the overall amount of public open space to benefit all residents of Knutsford.

6.9. Public Health Implications

6.9.1. It is anticipated that c4% of the Blue Land will be disposed of to enable access into LPS 38 and it is also anticipated that the Green Land will be used for access, within the confines of public open space. Any lost public open space will be replaced as part of the planning process. It is anticipated that through the planning process there will be an overall increase in public open space in the locality.

7. Ward Members Affected

7.1. Knutsford – Cllr Stewart Gardiner, Cllr Hayley Wells-Bradshaw & Cllr Tony Dean.

8. Consultation & Engagement

8.1. The Council published public open space disposal notices for two consecutive weeks in accordance with Section 123 of the Local Government Act 1972 (as amended by the Local Government Planning and Land Act 1980). In addition to this statutory requirement, the Council also made the information available at its Westfields office and on the Council's web site. It has also briefed Knutsford Town Council. Council Officers have confirmed the location of the information to enquirers to the Council.

8.2. This report is being published for a period of 28 days to allow an additional opportunity for residents and interested parties to make further representations. These further representations can be made at the following email address:

proposeddisposalofpublicopenspace@cheshireeast.gov.uk.

9. Access to Information

9.1. All supporting documents are included within the appendices of this report.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

Name: Frank Jordan
Designation: Executive Director, Place
Tel No: 01270 686643
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Appendix List

Appendix 1 – Plan Longridge

Appendix 2 – Cabinet Resolution 10 Oct 2017

Appendix 3 – Redacted Representations

Appendix 4 – Plan - Land off Longridge

Appendix 5 - Collation of Objections

Appendix 6 – List of Objections

Appendix 7 – Grounds of objections and representations

Appendix 8 – Covenant Briefing Report