

North Tyneside Council Report to Cabinet 13 April 2015

ITEM 6(d)

Objections received in response to a Public Open Space advert for Land at West Farm Wynd in Longbenton and Church Bank in Wallsend

Portfolio(s): Housing and Environment
Finance

Cabinet Member(s): Cllr J Harrison
Cllr R Glindon

Report from Service Area: Environment and Leisure

Responsible Officer: Phil Scott, Head of Environment and Leisure (Tel: 643 7295)

Wards affected: Longbenton and Wallsend

PART 1

1.1 Purpose

This report provides Cabinet with information on representations made in relation to a statutory advertisement to dispose of public open space at West Farm Wynd in Longbenton, and at Church Bank in Wallsend, in order to facilitate the development of two affordable housing schemes.

1.2 Recommendation

It is recommended that Cabinet considers the representations made and determines whether or not to set aside the objections received in relation to the disposal of public open space at West Farm Wynd in Longbenton, and at Church Bank in Wallsend.

1.3 Forward plan

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 9 March 2015.

1.4 Council plan and policy framework

The report is relevant to the following priorities set out in the Our North Tyneside Plan 2014 - 2018:

Our Places

Have more quality affordable homes.

1.5 Information

1.5.1 Background

The two areas of land shown by dark outline on the plans attached as Appendices 1 and 2 to this report are both Authority owned and are currently accessible by members of the public. They are therefore deemed to be areas of public open space.

Both areas of land have previously been declared surplus to requirements in accordance with a recommendation approved by Cabinet on 10 March 2014.

Planning permission has also recently been granted for the development of both sites with affordable homes for rent. The scheme at West Farm Wynd comprises 5no. 2 bed houses with associated parking, and the scheme at Church Bank in Wallsend comprises 8no. 2 bed houses.

Terms and conditions are therefore currently being provisionally negotiated for their proposed disposal to a Registered Provider.

As both areas of land are considered to be public open space they are subject to the relevant provisions of the Local Government Act 1972. As a result, the Authority must advertise its intention to dispose of the areas of land in accordance with Section 123 of the Act and formally consider any representations made.

This must be done by placing Notices advertising the proposed sales for two consecutive weeks in a local newspaper. The Authority's intentions were advertised in the Journal on 4 March 2015 and 11 March 2015, respectively and in the local weekly News Guardian on 5 March 2015, and 12 March 2015, respectively. The closing date for the receipt of representations was set as 26 March 2015.

Prior to expiry of the closing date, the following representations were made: -

1.5.2 West Farm Wynd, Longbenton

One representation was received from a local resident, the main points of which are summarised below. It should be noted that this resident makes reference in his letter to his neighbours having similar concerns:-

1. The loss of three existing informal car parking spaces currently used by the residents of nearby properties will result in residents having to park outside of their properties on an already narrow road. This will also cause difficulty for refuse trucks on their collection rounds.
2. Concern regarding the possibility of localised flooding by building over an area of land that currently absorbs rainfall. This particular resident states that he experienced localised flooding to his own home approximately two years ago.
3. Concern over the location of the access point to the proposed development which residents consider would be better located off the adjacent main road rather than at the end of an existing cul de sac.
4. The loss of an area of land where children can play and residents can walk dogs.

The following information has been supplied by the proposed developer in relation to these points of objection, taken in the same order:-

1. Consultation was undertaken with the Authority's highway officers to ensure that the scheme is both accessible for the residents and for refuse collections. The proposed developer has therefore ensured that the relevant highway standards have been adhered to.
2. Consultation was undertaken with Northumbrian Water Limited (NWL) and followed NWL'S recommendations for both foul and surface discharge rates. No history of flooding in this area was identified by NWL. The new properties proposed would also be constructed to Code level 3 which will include specialist measures such as flow restrictors, slow flow taps and water butts to help reduce waste water from the properties.
3. To bring an access directly off the adjacent main road would require the need to overcome significant ground level issues and underground service diversion works which would have resulted in a number of retaining walls and easement strips. This would have had a negative impact on the design quality of the development.
4. The Open Space Needs Assessment undertaken as part of the planning process highlighted that there would be no significant loss of public open space in this locality.

A more general comment from the proposed developer confirms that, one person attended a local resident consultation event about the proposed development and there was no feedback from local residents to consultation letters sent out to the occupiers of surrounding properties.

1.5.3 Land at Church Bank, Wallsend

One representation was received from a local resident, the main points of which are summarised below:-

1. This piece of land should be used to either extend the adjacent Church Bank allotment site or to assist in improving the allotment site infrastructure, such as the development of a parking area. This would help support the Authority's Allotment Strategy.
2. The supporting ecological documentation to the planning application did not appropriately consider the biodiversity of the land designated as allotments and was therefore misleading.
3. The Authority did not post statutory notices in newspapers available to local residents until after the decision to dispose of the land was made at Church Bank. The resident considers this to be maladministration by the Authority.

The following responses are provided and include some information supplied by the proposed developer in relation to these points of objection taken in the same order:

1. The Authority's Allotment Strategy does not place any obligation on the Authority to make this area of land available for an extension to the adjacent allotment site or for any supporting infrastructure.

2. The ecological report was carried out independently by qualified ecologists and the findings contained in the report were taken into consideration when designing the proposed development. In addition, the Council's Biodiversity Officer was consulted on the planning application and raised no objections subject to the imposition of conditions to ensure appropriate mitigation.
3. A decision as to whether to dispose of the land is the subject of this report and has not yet been made. The Authority's Head of Law and Governance has confirmed that the requirement to advertise the potential loss of public open space under Section 123 of the Local Government Act 1972, does not arise until the land has already been formally declared surplus to the Authority's requirements and available for disposal. Intention to dispose notices were placed in the local press on various dates as set out in paragraph 1.5.1 of this report. Planning statutory notices were published in February 2015 and this may have led to some confusion.

1.6 Decision options

Following consideration of the objections Cabinet may decide:

- i) To set aside the objections received in relation to the disposal of public open space from both areas of land at West Farm Wynd in Longbenton and at Church Bank in Wallsend and allow the disposal of both sites to proceed; or
- ii) To uphold the objection received in relation to the disposal of public open space at West Farm Avenue in Longbenton in which case the disposal of this land cannot proceed; or
- iii) To uphold the objection received in relation to the disposal of public open space at Church Bank in Wallsend in which case the disposal of this land cannot proceed; or
- iv) To uphold the objections received in relation to the disposal of public open space from both areas of land at West Farm Avenue in Longbenton and at Church Bank in Wallsend in which case the disposal of both sites cannot proceed.

1.7 Reasons for recommended option

There is no recommended option.

1.8 Appendices

Appendix 1: Plan showing the land at West Farm Wynd in Longbenton by means of black outline.

Appendix 2: Plan showing the land at Church Bank in Wallsend by means of black outline.

Appendix 3: Letter of objection from resident in respect of land at West Farm Wynd in Longbenton.

Appendix 4 Letter of objection from resident in respect of land at Church Bank in Wallsend.

1.9 Contact officers

Roy Marston – Acting Head of North Tyneside Homes – Tel. 0191 6437580
Niall Cathie - Strategic Property Manager – Tel. 0191 643 6517
Alison Campbell - Senior Business Partner – Tel. 0191 643 7038
Jackie Palmer – Planning Manager – Tel. 0191 643 6336

1.10 Background information

The following background papers and research reports have been used in the compilation of this report and are available for inspection at the offices of the author.

1. Advertisements in News Guardian (5th and 12th March 2015).
2. Advertisements in the Journal (4th and 11th March 2015)
3. Letter of objection provided as Appendix 3.
4. Letter of objection provided as Appendix 4.
5. Council's land ownership records.

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

In the event that the disposal of either piece of land does not proceed then any potential capital receipt from that disposal would be lost.

2.2 Legal

Under section 123 of the Local Government Act 1972, there is a legal requirement for the Authority to advertise its intentions to dispose of public open space within its boundaries for two consecutive weeks in a local newspaper circulating within the area, and to consider any objections or representations made. This advertising requirement is the means by which local public opinion regarding such proposals can be obtained.

2.3 Consultation/community engagement

Ward Members were consulted as part of the process seeking to declare the land surplus to requirements and available for sale.

External consultation has taken place in accordance with section 123 of the Local Government Act 1972, by the placement of notices in the local press.

Public consultation was undertaken as part of the normal planning process in respect of the development proposals for each area of land.

2.4 Human rights

There are no human rights implications directly arising from this report.

2.5 Equalities and diversity

There are no equality and diversity implications directly arising from this report.

2.6 Risk management

There are no risk management implications arising from this report.

2.7 Crime and disorder

Crime and disorder issues were considered as part of the planning process in respect of the proposed development of both sites.

2.8 Environment and sustainability

Environment and sustainability issues were considered as part of the planning process in respect of the proposed development of both sites.

PART 3 - SIGN OFF

- Deputy Chief Executive x
- Head of Service x
- Mayor/Cabinet Member(s) x
- Chief Finance Officer x
- Monitoring Officer x
- Head of Corporate Strategy x