

# North Tyneside Council Report to Cabinet 11 May 2015

## ITEM 6(e)

Objection received in response to a Public Open Space advert for Land at 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: Wallsend

## PART 1

### 1.1 Purpose

This report provides Cabinet with information on a representation made in relation to a statutory advertisement to dispose of public open space at Church Bank in Wallsend, in order to facilitate the development of an affordable housing scheme.

### 1.2 Recommendation

It is recommended that Cabinet considers the representation made and determines whether or not to set aside the objection received in relation to the disposal of public open space 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**

- 1.5.2 At its meeting held on 13 April 2015 Cabinet deferred the consideration of a representation made in relation to a statutory advertisement to dispose of public open space at Church Bank in Wallsend. This is because the party that made the representation asked for the matter to be withdrawn from consideration by Cabinet.
- 1.5.3 Following further contact with the party that made the representation it has now been agreed that the matter should proceed to be considered by Cabinet.
- 1.5.4 The land at Church Bank is shown by dark outline on the plan attached as Appendix 1 to this report. It is owned by the Authority and is currently accessible by members of the public. It is therefore deemed to be an area of public open space.
- 1.5.5 This land was previously declared surplus to requirements in accordance with a recommendation approved by Cabinet on 10 March 2014.
- 1.5.6 Planning permission has also recently been granted for the development of the site with affordable homes for rent comprising 8no. 2 bed houses.
- 1.5.7 Terms and conditions are therefore currently being provisionally negotiated for its proposed disposal to a Registered Provider.
- 1.5.8 As this land is considered to be public open space it is subject to the relevant provisions of the Local Government Act 1972. As a result, the Authority must advertise its intention to dispose of the land in accordance with Section 123 of the Act and formally consider any representations made.
- 1.5.9 This must be done by placing Notices advertising the proposed sale 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.
- 1.5.10 Prior to expiry of the closing date 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.

1.5.11 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 objection Cabinet may decide:

- i) To set aside the objection received in relation to the disposal of public open space at Church Bank in Wallsend and allow the disposal of the site to proceed; or
- ii) 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.

## **1.7 Reasons for recommended option**

There is no recommended option.

## **1.8 Appendices**

Appendix 1: Plan showing the land at Church Bank in Wallsend by means of black outline.

Appendix 2: 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 ( 5<sup>th</sup> and 12<sup>th</sup> March 2015).
2. Advertisements in the Journal (4<sup>th</sup> and 11<sup>th</sup> March 2015)
3. Letter of objection provided as Appendix 2.
4. 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 the land does not proceed then any potential capital receipt 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 proposal for the 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 the site.

## 2.8 Environment and sustainability

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

### PART 3 - SIGN OFF

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