



## Report of the Cabinet Member for Business Transformation & Performance

Cabinet – 18 April 2019

### Notice of Disposal of Open Space - Land at Parklands View, Sketty, Swansea

<b>Purpose:</b>	The purpose of this report is to consider the response to the Open Space Notice in respect of the above site and to seek approval for disposal
<b>Policy Framework:</b>	The Council's Asset Management 2017/2021
<b>Consultation:</b>	Access to Services, Finance, Legal, Planning
<b>Recommendation(s):</b>	It is recommended that Cabinet:  1) Considers the objections received in respect of the removal of the open space designation. 2) Notes that, under the previous UDP, the loss of this open space was not considered to negatively impact the Sketty ward, which had a surplus of public open space. However, this does not guarantee that residential planning consent would be granted under the new LDP provisions. 3) Authorises the Head of Property Services to bring the site forward for marketing and disposal.
<b>Report Author:</b>	Richard John
<b>Finance Officer:</b>	Ben Smith
<b>Legal Officer:</b>	Debbie Smith
<b>Access to Services Officer:</b>	Rhian Millar

#### 1. Introduction

- 1.1 As part of the ongoing Universal Review of property assets, Strategic Estates has identified a range of small sites/plots with development potential, (subject to planning), within the Councils property portfolio – Parklands View is one of these sites, (see attached Plan **Appendix A**). This site is not utilised operationally and presents an opportunity for disposal which would present a saving of ongoing maintenance costs,

remove a possible Health and Safety liability and generate a capital receipt for the Authority.

## **2. Background**

- 2.1 The plot adjoining 5 Parklands View in Sketty (**Appendix A**) measures approximately 540 square metres is recorded as a recreational/amenity area within the Sketty Ward of Swansea.
- 2.2 On behalf of the management committee of Strategic Estates, the Parks Operational Department has maintained the plot on an annual basis with seasonal grass cutting, herbicide treatment and adhoc repairs, at a cost to the revenue budget.
- 2.3 Since the site was identified in the 2006 Universal Review Parks Officers have noted very little public use. Expenditure on maintenance has however been ongoing: Broken benches have been removed and tree growth causing root damage to the front wall has had to be removed. Of current concern are the uneven paths, the absence of handrails adjoining the access steps, sloping ground levels, (down towards the highway), and vertical drops beyond a retaining boundary wall to adjoining property. (See attached photographs – **Appendix B**).
- 2.4 Consequently, the site may be considered inappropriate for community use because of these concerns. The cost of addressing the issues also, arguably outweighs the limited amenity value of the site in light of this ward enjoying ample open space for public recreation.
- 2.5 There are no covenants registered against the title which prevents the Council from disposing of this land, or which restrict its current or potential future use
- 2.6 Sketty Ward members have been consulted by a letter dated 6th September 2017 and no objections have been received (**Appendix C**).
- 2.7 In advance of any 'disposal of open space' the Council is required to serve a Section 123 (2A) Notice under the Local Government Act 1972 (as amended) – (**Appendix D**)
- 2.8 This notice was displayed from 7<sup>th</sup> February to the 28<sup>th</sup> February 2018, advertised in the Swansea Evening Post newspaper and on the Council website at <http://www.swansea.gov.uk/publicnotices> and a further notice was also placed on the land. As a consequence twelve letters of objection (plot 6 only) and one expression of interest in purchasing the plot for development were received by post and electronic mail. There was also one telephone call to the Legal dept.

2.9 The objections received are summarised as follows. The land should be retained by the Council for the benefit of the public because:

- Is a well-used open space.
- It is a children's play area.
- It is used by local families.
- It is used for barbecues.
- It is used by the elderly and has well-being benefits.
- It is a wildlife area where foxes have been seen.
- The loss of this land would result in a loss of value to local properties.
- The land is not suitable for building/development of any kind.

Other objections centred upon whether the Council was legally obliged to keep the area as open space due to apocryphal covenants against building.

2.10 In Estates opinion, these objections are not of sufficient substance, nor of sufficient number to prevent disposal for a capital receipt. Further, most objections are not supported by the information available to, or collated by officers, who have noted that the land is very rarely used. There are no covenants preventing sale or possible future development. There are onerous Health and Safety implications and burdensome costs associated with retaining and maintaining the land.

### **3.0 Planning Implications**

3.1 The land is not designated as open space in the Open Space Assessment (OSA). The OSA categorises open space under the Fields in Trust (FIT) and Accessible Natural Greenspace (ANGS) standards. The OSA seeks to address deficiencies to accessible open space and requires additional provision in deficient areas.

3.2 Previously, the Councils Planning Policy Team calculated that the loss of this small plot would not have any detrimental effect upon the overall recreation land available to residents of the Sketty Ward. This geographic area has adequate provision within 300 metres therefore no additional provision would be required. The loss of land would therefore not have a negative impact on the open space provision in this ward.

3.3 Planning guidance was sought for the land through a Planning Pre Application Enquiry dated 13/12/2016, (Ref 2016/3235/PRE). The response indicated that there was a possibility that the site might accommodate a single detached bungalow. The planning department however reserved final judgement pending the submission of further details. The pre application response it contained at **Appendix E**.

3.4 It is important to note that since the original pre planning application the council has now adopted a new LDP Policy and this may affect a future purchaser's ability to develop on the site.

- 3.5 Estates therefore recommends that Cabinet authorise the Head of Property Services to dispose of the site, which should be marketed as suitable for development, subject to Planning consent.

#### **4. Equality and Engagement Implications**

- 4.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

- 4.2 An EIA screening form has been completed and reviewed (**Appendix F**). The agreed outcome was that a full EIA report was not required as there are no equalities and engagement implications at this time. Any developments will be subject to normal planning procedures.

#### **5. Financial Implications**

- 5.1 In accordance with current policy, the capital receipt generated from the disposal of this site will contribute towards the Council's overall capital receipt target and will not be allocated for any other specific purpose.

#### **6. Legal Implications**

- 6.1 Under Section 123 of the Local Government Act 1972 before disposing of any land that constitutes public open space, the Council is required to advertise the disposal in the local newspaper for two consecutive weeks. The public then have an opportunity to send written objections to the proposed disposal, with any objections being considered by the Council prior to the disposal proceeding.

- 6.2 The Council should give full consideration to any objections received in response to the Section 123 Notice of disposal. The Council will be open to legal challenge if the correct legal process is not followed in order to discharge the requirements of section 123 of the Local Government Act 1972 and/or if it fails to give full and proper consideration to any written representations/objections.

- 6.3 The key issue for the Council is to balance any adverse consequences of the loss of open space, having regard to the objections received, against the advantages of disposing of the land.

- 6.4 In the event that a decision is made to proceed with the process of disposal of the land then the Council will need to follow a further separate process to appropriate the land pursuant to Section 122 Local Government Act 1972 to reflect the proposed change in use.

**Background Papers:** None

**Appendices:**

Appendix A: Plan

Appendix B: Photographs

Appendix C: Letter to Sketty Ward members

Appendix D: Section 123 Notice (ref to plot 6 only)

Appendix E: Planning guidance reply

Appendix F: EIA Screening Form