

REPORT FOR DECISION



DECISION OF:	Cabinet
DATE:	15 November 2017
SUBJECT:	OBJECTIONS TO THE PROPOSED DISPOSAL OF PUBLIC OPEN SPACE – LAND TO THE REAR OF 131/133 HOLCOMBE ROAD, TOTTINGTON, BURY, BL8 4AY
REPORT FROM:	Cabinet Member for Finance and Housing
CONTACT OFFICER:	Paul Aungier Principal Surveyor, Property & Asset Management
TYPE OF DECISION:	CABINET (KEY DECISION)
FREEDOM OF INFORMATION/STATUS:	Public Domain
SUMMARY:	<p>The report provides details of the objections received to the proposed disposal of Public Open Space to the rear of 131/133 Holcombe Road, Tottington.</p> <p>The extent of the land concerned is shown edged red on the plan contained within Appendix 1 to this report.</p>
OPTIONS & RECOMMENDED OPTION	Members are requested to consider the objections received and determine whether any have sufficient weight to prevent the sale of the Public Open Space.
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	If release of the land is approved, Property Services will commence negotiations with the applicant to secure best consideration
Health and Safety Implications	Risks and mitigations to be identified and agreed for each transfer considered.

Statement by Executive Director of Resources (including Health and Safety Implications)	There are no wider resource requirements
Equality/Diversity implications:	None
Considered by Monitoring Officer:	Yes – Notice of Intention to dispose was advertised in accordance with the Local Government Act . The Council will be able to impose restrictions on future use if so required
Wards Affected:	Tottington
Scrutiny Interest:	Internal Scrutiny

TRACKING/PROCESS

INTERIM DIRECTOR: Stephen Kenyon

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
Scrutiny Committee	Cabinet/Committee	Council	
	X		

1.0 BACKGROUND

- 1.1 The Council has received a request from the owner of 131/133 Holcombe Road, Tottington to purchase the land shown edged red on the plan shown in Appendix 1 to this Report for the purpose of extending their private garden. The land comprises a mainly sloping site covering an area of approximately 442 square metres. Photographs of the land can also be seen in Appendix 1.
- 1.2 The land is located within the Green Belt and forms part of Old Kays Park which is controlled and maintained by the Council's Parks and Countryside service. Under the planning designation the land is also classified as a wildlife link and corridor and a special landscape area.
- 1.3 The land which comprises Old Kays Park was purchased for £1,260 by the Council (The Urban District Council of Tottington) on 5 February 1937 from William Lawson and was a farm known as 'Old Kays', made up of fields and farm buildings. No restriction as to the future use was made in the

conveyance. The land was acquired under the powers of the Public Health Acts 1875 to 1925.

- 1.4 The owner of 131/133 Holcombe Road has already obtained planning permission (Planning Ref: 58754. Web page: [58754 | Change of use from open land to form extension to residential curtilage | Land at rear of 131-133 Holcombe Road, Tottington, Bury, BL8 4AY](#)) in respect of the land they would like to purchase for a change of use to form an extension to residential curtilage. It is a condition of the planning permission that the boundary of the property is to be marked by a beech hedge to be planted by the applicant not later than 12 months from the date when the residential curtilage is first brought into use. Any trees or shrubs removed, dying or becoming severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted.
- 1.5 No negotiations have taken place with the applicant with regard to the purchase of the land however terms would be proposed if Members approve the proposed disposal. It would be a condition of sale that the land can only be used as a garden.
- 1.6 Under the Surplus Land and Property Disposal Strategy, approved by Cabinet on 18 December 2013, the land was declared surplus to the Parks and Countryside requirements following consultation with Ward Members. No objections were received to the proposed disposal at this stage. A copy of the Operational Decision form is contained within Appendix 2 of this report.
- 1.7 Under the Strategy, the procedure makes provision where, due to their size, type or location, assets not considered appropriate to be circulated around other Council departments or Team Bury Partners may be declared surplus to Council requirements via Officer Delegation. The land was not considered to be suitable for circulation and was declared surplus. A copy of the Operational Decision form is contained within Appendix 2 of this report.
- 1.8 Sections 123(2A) and 127(3) of the Local Government Act 1972 and section 233(4) of the Town and Country Planning Act 1990 ('the 1990 Act') require a local authority wishing to dispose of open space under those powers to advertise its intentions in a local newspaper for two consecutive weeks and to consider objections.
- 1.9 Notices advertising the intention to dispose of Public Open Space were placed in editions of the Bury Times on 15 June and 22 June 2017 with a closing date for objections of 14 July 2017. Local Ward Councillors were informed that the advertisements were to be placed in the Bury Times on 12 June 2017.

2.0 OBJECTIONS RECEIVED

- 2.1 Following the advertisement of the intention to dispose of Public Open Space, 3 objections to the disposal have been received from members of the public and 1 objection has been received on behalf of the Tottington District Civic Society. Copies are contained within Appendix 3 to this report.

3.0 SUMMARY OF OBJECTIONS

- 3.1 Objection 1 states that the land forms part of Old Kays Park where the person often walks and it is also pointed out that the land is Green Belt.
- 3.2 Objection 2 states that the land forms part of Old Kays Park and should be retained as such for the benefit of the wider public. It is also stated that the land is Green Belt and should be kept for people to enjoy. Selling the land would encourage others whose property adjoins parkland to apply to buy for garden use. In addition the objector does not regard a lack of privacy or security as a reason for purchase and also states that the applicant may decide to build on the land in the future. The objector also comments that the owners of 131/133 were aware of their existing boundary when they purchased the property.
- 3.3 Objection 3 states that the previous owner of the land bequeathed the land that is now Old Kays Park to the public and did not intend for it to be sold off to private individuals but to be used for the benefit of the wider public. The objector also mentions a sign stating that the woodland has been created for future generations with the help of the Forestry Authority and questions how future generations could enjoy the land if it is sold off, also questioning what the Forestry Authority would say about selling off areas. The objector is also of the view that the sale of the land would set a precedent for future sales of parkland. The objector also states that the owners of 131/133 were aware of the boundary to their property when they bought it.
- 3.4 Objection 4 from the Tottington District Civic Society states that the area is used by the general public for leisure pursuits and the Society understands that the land was bought for the public benefit. The Society also state that access to the land is not easy and it should be left as natural parkland for the enjoyment of all.

4.0 RECOMMENDATION

- 4.1 Members are requested to consider the objections received and determine whether any have sufficient weight to prevent the proposed sale of the Public Open Space.

For further information on the details of this report, please contact:

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APPENDIX 1

Public Open Space Disposal Plan



P657 131
HolcombeRd 1206201



Land rear 131 & 133
Holcombe Rd.pdf

DRAFT

APPENDIX 2

Operational Decision Forms declaring land to be surplus



SKMBT_6011701311
1260.pdf



SKM_C31101705110
92000.pdf

APPENDIX 3

Emails and letters received from member of the public and Tottington District Civic Society



Objection 1.pdf



Objection 2.pdf



Objection 3.pdf



Objection 4.pdf