

Name of meeting: Cabinet
Date: 29 May 2019
Title of report: Disposal of open space at Raikes Lane/The Mount, Birstall, Batley

Purpose of report

The purpose of this report is for Cabinet to consider the objections received as a result of advertising the Council's intention to dispose of open space at Raikes Lane/The Mount, Birstall, Batley shown edged red on the Plan contained within Appendix 1 and to determine whether to proceed with the intended disposal of the open space.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by Strategic Director and name Is it also signed off by the Service Director - Finance? Is it also signed off by the Service Director - Legal Governance and Commissioning?	Karl Battersby - 13.05.2019 Eamonn Croston - 15.05.2019 Julie Muscroft - 13.05.2019
Cabinet member portfolio	Cllr Graham Turner - Corporate

Electoral wards affected: Birstall and Birkenshaw

Ward councillors consulted: Cllr Liz Smaje, Cllr Mark Thompson, and Cllr Robert Light

Public or private: Public

Has GDPR been considered? Yes and personal information has been redacted

1. Summary

As a result of the previous Cabinet Approval received on the 21st August 2018, to dispose of the land at Raikes Lane/The Mount Birstall, Batley Officers have moved the disposal process forward. As the land in question is classed as 'open space' the disposal involves the advertising of the intention to dispose in the local press to determine if there are any objections to the disposal of the land. Any objections received have to be referred back to Cabinet for consideration pursuant to paragraph (v) of Part O, Section F of the Constitution.

Cabinet are therefore asked to consider the objections received in response to the advertisement of disposal of open space at Raikes Lane/The Mount, Birstall, Batley and to determine if the intended disposal should proceed.

2. Information required to take a decision

Approval to dispose of the land by public auction was granted by Cabinet on 21st August 2018, following consultation with local ward members, Cllr Graham Turner – Portfolio Holder: Asset Strategy, Resources and Creative Kirklees (Arts), at the Asset Liaison Group and subject to advertising the proposed disposal of open space under Section 123(2A) of the Local Government Act 1972.

Notices advertising the intention to dispose of this open space were placed in the "The Press" on 26th October and 2nd November 2018, with a deadline for objections to be received by no later than 19th November 2018. Copies of the newspaper adverts are attached at Appendix 4.

The land is a former slum clearance site which has been vacant for a number of years and is currently maintained as open space.

The site does not have any planning permission at present, however, the sale with unrestricted use and the fact that the land remains unallocated in both the current Unitary Development Plan and the proposed Local Plan will mean that a subsequent purchaser could submit an application for various forms of development. In accordance with the Government's National Planning Policy Framework and accompanying National Planning Practice Guidance, consultations are made with all relevant council departments, local residents and an information notice will be placed close to the site advising members of the public of any intended development. Any/All comments received are taken into consideration by the Planning Committee before a decision is taken on the application

2.1 Objections Received

There have been six individual objections. A copy of the letters of objection are contained within Appendix 2 and have had personal data appropriately redacted.

The points raised by the objectors refer to matters which would be considered at the planning application stage, the opportunity to object to any proposed development of

the land would be presented when a planning application was submitted by the new purchaser.

Due to the fact that objections have been received it is necessary for this report to be referred back to Cabinet for consideration of the objections pursuant to paragraph (v) of Part, Section F of the Constitution and for a final decision to be made by Cabinet on whether to proceed with the intended disposal of the land or withdraw it from sale and retain it as open space.

The main objections can be categorised into the following areas to which the officer responses have been included for consideration:

2.1.1 Objection – Within the Birstall Conservation Area and the setting of listed buildings.

The Council has received a specific objection in relation to the location of the site being within the Birstall Conservation Area.

Any proposed development will be subject to the statutory requirements of sections 66 & 72 of the Planning Act 1990 and Chapter 16 of the National Policy Framework (Listed Buildings and Conservation areas) and will be considered as part of the planning process.

2.1.2 Objection – Wildlife and Trees

The Council has received a specific objection in relation to the impact on wildlife and trees. The Council's Arboricultural Officer was consulted on 7 September 2018 and it was been deemed there are no trees on the site worthy of protection, however, he will be consulted again when and if a planning application is submitted. The European Habitats Directive (92/43/EC) requires 'appropriate assessment' of plans and projects that are, either alone or in combination with other plans and projects, likely to have a significant impact on national and international designated sites. Any proposed development will also be subject to the Council's own strategy policies as well as the Natural Environment and Rural Communities (NERC) Act 2006, which imposes a duty on public bodies to conserve and enhance biodiversity and these will be considered as part of the planning process.

2.1.3 Objection – Road Congestion/Highways Issues

The Council has received a specific objection in relation to the potential impact on road congestion and highways issues. Any application for development will be subject to review by Highways Development Management who will pass the matter to any other Highway disciplines which may be relevant to the proposal. The application will be subject to the relevant statutory requirements for Access and Layout, Parking, Drainage and Waste Collection and Road Safety Audits. Proposals would need to demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users. Any comments/objections made by the Highways Team will again be considered as part of the planning process and new development will not be permitted if it adds to highway safety problems.

3. Implications for the Council

3.1 Working with People

The disposal of the land will potentially provide the opportunity for local small scale development and support the local labour market.

3.2 Working with Partners.

A letter has been received from Historic England reminding the Council the site is within the Birstall Conservation Area and of the setting of listed buildings. A copy of the letter is enclosed within Appendix 3. The letter has also been forwarded to Planning Services for their attention.

3.3 Place Based Working

There will be no impact.

3.4 Improving outcomes for children

There will be no impact.

3.5 Other (e.g. Legal/Financial or Human Resources)

The Council has the statutory powers to dispose of the land and the disposal is in line with the Disposal and Acquisition Policy 2017.

A capital receipt will be received through the sale at public auction.

Savings will be made by reduced maintenance responsibility.

4. Consultees and their opinions

Ward Members Consultation – Birstall and Birkenshaw

Cllr Liz Smaje, Cllr Mark Thompson, Cllr Robert Light – August 2018 – (Original Cabinet Report 21st August 2018.)

Cllr Liz Smaje - "My comments are similar to those sent in for the report for the larger piece of land proposed to be sold by the council. The cumulative effect of both need to be considered. The land sits within the Birstall Conservation Area and forms part of the green open space. It sits next to a site with a Grade II listed building on, together with curtilage buildings, and sits directly on the junction of the cobbled Mount and Raikes Lane. If the council sells this land what guarantees do we have that it will remain green space, what protections can be put in place. If the answer is none then this land should remain in council ownership. Green space in Birstall is slowly being eroded by the selling of land by the council in this important conservation area. "

Cllr Liz Smaje, Cllr Mark Thompson, Cllr Robert Light – 11th February 2019 (this report).

Cllr Liz Smaje – “In respect of the proposed disposal of land at Raikes Lane and further to my previous comments I reiterate:

This is within a conservation area, with the historic area around The Mount being specifically mentioned. This piece of land is at the top of The Mount on the corner with Raikes Lane and is accessed by two cobble roads. I fully agree with the objections to the sale of this land and refer you to the Birstall Conservation Area Appraisal which seems to have been totally ignored by Kirklees. Selling this land with unrestricted use for development would affect the character or appearance of this particular historic part of Birstall.”

Cllr Mark Thompson – “I would like to add my agreement to the objection to sell this land and support fully the points that Cllr Smaje has put to you.”

5. Next steps and timelines

If the current approval to dispose is maintained, the land will be sold by public auction in 2019.

6. Officer recommendations and reasons

It is recommended that Cabinet approve the disposal of this area of open space in order that:

- i) The land can be better utilised and maintained
- ii) A capital receipt would be achieved
- iii) A potential opportunity for local small scale development and support for the local labour market can be provided
- iv) Objections in relation to issues associated with the future development and use of the site can be considered as part of the statutory planning process

A sale by public auction would provide interested parties with the option to acquire a potential development opportunity in an open and competitive way.

7. Cabinet portfolio holder’s recommendations

This item was discussed at Portfolio Briefing 21st January 2019.

The Cabinet Portfolio Holder stated that they ‘Welcome the release of the parcel of land to the open market which will generate a capital receipt for the Council and the opportunity for small local developers to build much needed homes for the community’.

The Cabinet Portfolio Holder recommends that Cabinet approve the disposal of this area of open space in order that:

- i) The land can be better utilised and maintained
- ii) A capital receipt would be achieved
- v) A potential opportunity for local small scale development and support for the local labour market can be provided
- vi) Objections in relation to issues associated with the future development and use of the site can be considered as part of the statutory planning process

8. Contact officer

Gary Fowler - Team Leader: Disposals & Acquisitions
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9. Background Papers and History of Decisions

Portfolio Briefing – 21st January 2019

Cabinet Approval Received - for the recommendations within the report, considered at Cabinet on 21st August 2018 'Disposal of Surplus Land and Property Assets'.
Decision Notice published 22nd August 2018.

10. Service Director responsible

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Appendices:

Appendix 1 - Site Plan

Appendix 2 - Objection Letters (Personal Information Redacted)

Appendix 3 - Correspondence Received from Historic England

Appendix 4 - Press Adverts