

**Name of meeting:** Cabinet Committee  
**Date:** 23 March 2022  
**Title of report:** Disposal of Open Space adj 39 Carrside Crescent, 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 an area of Open Space adjoining 39 Carrside Crescent, Batley, shown edged red on the plan, 20-0344, contained within Appendix 1 and to determine whether to proceed with the intended disposal of the Open Space.

<b>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?</b>	No
<b>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports?)</u></b>	No
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	
<b>Date signed off by Strategic Director and name</b>	David Shepherd – 2 February 2022
<b>Is it also signed off by the Service Director - Finance, IT and Transactional Services?</b>	Joanne Bartholomew - 25 January 2022 Eamonn Croston – 26 January 2022
<b>Is it also signed off by the Service Director - Legal Governance and Commissioning?</b>	Julie Muscroft – 27 January 2022
<b>Cabinet member for Corporate</b>	Cllr Paul Davies – 9 February 2022

**Electoral wards affected: Batley East**

**Ward councillors consulted: Cllr Mahmood Akhtar, Cllr Fazila Loonat, Cllr Habiban Zaman**

**Public or private: Public**

**1. Summary**

Cabinet Committee are asked to consider the objections received in response to the advertisement of disposal of open space adjoining 39 Carrside Crescent, Batley and to determine if the intended disposal should proceed.

**2. Information required to take a decision**

Approval to dispose of the land was granted by Housing, following consultation with local ward members and residents subject to advertising the proposed disposal of Open Space under Section 123(2A) of the Local Government Act 1972 and planning permission for change of use of the land to garden first being approved.

Notices advertising the intention to dispose of this Open Space were placed in the newspapers circulating in the area the Reporter Series” on 21 October and 28 October 2021, with a deadline for objections to be received by no later than 11 November 2021

The land is unallocated in the Local Development Plan. No application for planning permission has been submitted.

The land is an area of open space, maintained by Housing Services.

There have been two objections to the disposal. The main objections are to the following:

- a. The applicant does not look after his own garden
- b. It is believed the applicant may use the land to extend his property
- c. Loss of Light and access to maintain adjoining wall/ remove self-seeding saplings
- d. Suggestions of bat habitat

In response to the above points:

Point a: Inspections have been made of the applicant’s garden and it would appear to be well kept

Photographs are contained within Appendix 2

Point b: The intention is also to sell with restrictions for use as garden land only with no permanent structures allowed on the land.

Point c: The Access to Neighbouring Land Act 1992 would allow maintenance of the adjoining property if agreement could not be agreed between the two parties

Point d: Although there are no indications within our records to suggest the presence of Bats, it would be possible to request the applicant arrange a bat survey as part of the planning application, although the proposed use as additional garden is unlikely to impact on the surrounding area

Due to the objections, it is necessary for this report to Cabinet for consideration of the objections and a final decision to be reached on whether to proceed with the intended disposal of the land.

### **3. Implications for the Council**

#### **3.1 Working with People**

The intention was to dispose of the land subject to a covenant for additional garden use only and despite liaison with the adjoining owners, the concerns have not been resolved.

#### **3.2 Working with Partners**

None

### 3.3 Place Based Working

- Approval to dispose of the land was granted by Housing Services following consultation with local ward members, local residents and the local school
- The advertisement of the disposal of open space raised concerns from two adjoining residents
- The restriction of the use would prevent the land being used for development even though the land is unallocated in the Local Development Plan.
- It is proposed that the land will be disposed of, which will:
  - Raise a capital receipt
  - Reduce the need for future maintenance

### 3.4 Improving outcomes for children

None

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

The disposal is in line with the Disposal and Acquisition Policy 2017.

A capital receipt will be received through the sale

Savings will be made by reduced maintenance responsibility.

## 4. Consultees and their opinions

Ward Members Consultation – Batley East

The Ward Councillors were consulted on 26 September 2020 as part of the Housing consultation process. No objections were received.

Cllr Cathy Scott as Cabinet for Housing and Democracy was also briefed on 3 March 2022.

## 5. Next steps and timelines

If approved, the instructions will be sent to our Legal Team for contracts to be prepared and the applicant will need to submit and obtain planning permission for change of use to garden – prior to completion of the sale

## 6. Officer recommendations and reasons

It is recommended that Cabinet Committee 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

**7. Cabinet portfolio holder's recommendations**

Cllr Paul Davies, as Cabinet Member for Corporate concurs with the officer's recommendation and recommends the land be sold

**8. Contact officer**

Corinne Wilson Disposals & Acquisitions Officer  
Stuart Wilson Technical Development Officer – Homes & Neighbourhoods  
Gary Fowler Team Leader: Disposals & Acquisitions

**9. Background Papers and History of Decisions**

Disposals and Acquisition Policy - 3.03.17

**10. Service Director responsible**

David Shepherd: Growth & Regeneration