

Key Decision Required:	No	In the Forward Plan:	Yes
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PORTFOLIO HOLDER FOR CORPORATE FINANCE AND GOVERNANCE AND DEPUTY LEADER

9 September 2019

A FREEHOLD DISPOSAL OF LAND OFF CENTENARY WAY, CLACTON

(Report prepared by Layla Davey)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek approval in principle for the freehold disposal of a small parcel of land off Centenary Way, Clacton

EXECUTIVE SUMMARY

The land edged red on the plan at Appendix A comprises a hedge line that adjoins part of the Public Open Space between Chingford Avenue and Centenary Way in Clacton belonging to the Council and lies just outside of the fence of that area.

The owner of an adjacent housing development has mistakenly included land up to the fence in his development and would like to purchase the resulting small parcel of the land on the boundary for inclusion garden land for the new properties.

It is not considered that the disposal of this land would affect the use of the public open space.

Terms have been provisionally agreed and are set out in the concurrent confidential report.

RECOMMENDATION(S)

That the Portfolio Holder authorises the freehold disposal, in principle.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Council has corporate priorities that support delivering a quality living environment and making the most of our assets.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The freehold disposal will result in a capital receipt for the Council. Details of this are contained in the concurrent confidential report.

Risk

There is little risk with this transaction. The land is not used or valuable as part of the Public Open Space due to the fence and vegetation that restricts access along the boundary.

Not agreeing a solution to the situation may lead to a legal dispute.

LEGAL
<p>Section 123(1) Local Government Act 1972 (1972 Act) indicates that, a local authority may dispose of land held by it in any way it wishes so long as (section 123 (2)) the land is disposed for a consideration not less than the best that can reasonably be obtained.</p> <p>In coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Under case law following Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the district.</p> <p>Section 123(2A) Local Government Act 1972 indicates that, a local authority may not dispose of open space land held by it without advertising its intention to do so in the local press.</p> <p>Whilst the main recreation ground is classed as public open space, the area in question is located outside of the fencing and blocked for public access by planting. Accordingly officers do not consider that the area in consideration is Public Open Space.</p> <p>There is a potential boundary dispute with the developer considering that he had developed land up to the fence which he understood to be the boundary whereas the registered boundary shows that the land belongs to TDC. There is clearly potential for a dispute which would involve cost and risk. Agreement to the sale for a market value appears the least costly course of action.</p>
OTHER IMPLICATIONS
<p>Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.</p> <p>Crime and Disorder/Equality and Diversity/Health Inequalities/Consultation/Public Engagement</p> <p>An EIA is available on request</p> <p>Ward Members have been made aware of this report.</p> <p>Ward</p> <p>Burrsville</p>

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>Planning permission was granted for a housing development at Foots Farm, Thorpe Road, Clacton adjacent to the Council's Public Open Space. On completion of the development and when coming to sell one of the properties it was discovered that it may have encroached onto land registered to the Council. The developers have suggested there is some ambiguity as to the boundary line and they could attempt to dispute the encroachment with the Land Registry, however in order to reach a speedy and satisfactory conclusion so the new properties can be sold, they have proposed that they purchase the land.</p>
CURRENT POSITION
<p>An independent valuation has been obtained and negotiations have taken place full details of which are contained in the concurrent confidential report.</p>

FURTHER HEADINGS RELEVANT TO THE REPORT
None

APPENDICES
<ul style="list-style-type: none">• Appendix A – Location Plan