

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

18 JUNE 2019

REPORT OF THE CORPORATE DIRECTOR : COMMUNITIES

SECTION 123 (2A) LOCAL GOVERNMENT ACT 1972 : DISPOSAL OF LAND AT THE GREEN / SALT LAKE CAR PARK, PORTHCAWL

1. Purpose of report

- 1.1 The purpose of this report is for Cabinet to decide whether or not the above Council owned land, which is classed as public open space, should be made available for disposal.

2. Connection to corporate improvement objectives/other corporate priorities

- 2.1 This report assists in the achievement of the following corporate priority:
- Smarter use of resources – ensuring that all its resources (financial, physical, human and technological) are used as effectively and efficiently as possible and support the development of resources throughout the community that can help deliver the Council's priorities.

3. Background

- 3.1 Members may recall that early in 2018 the Council acquired the third party leasehold ownership in Salt Lake car park and merged this with its freehold ownership, in order to enable it to take control of the redevelopment of the site.
- 3.2 Officers have been working on an outline plan to bring forward the comprehensive redevelopment of the site. As a first phase it is looking to bring forward the sale of land to a food retailer to act as a catalyst to the rest of the scheme and to generate capital receipts, which can be reinvested into the future phases of development on the remainder of the land.
- 3.3 There is a significant amount of preparatory work which needs to be undertaken in terms of planning, highways and infrastructure requirements and legal processes, in order to bring these sites forward for sale. One of the legal steps required is for the Council as land owner to consider whether or not the land constitutes public open space and if so, to publish its intention to dispose of this land, freehold or leasehold. The definition of public open space under:
- the Public Open Spaces Act 1906 means ‘ ..any land, whether inclosed or not, on which there are no buildings or of which not more than one-twentieth part is covered with buildings, and the whole or the remainder of which is laid out as a garden or is used for purposes of recreation, or lies waste and unoccupied..’.

- the Town and Country Planning Act 1990 definition of “open space” means ‘ any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground.

3.4 In common with many Council owned sites which have been sold, the land known as The Green and Salt Lake car park is considered to constitute public open space and therefore in accordance with statutory requirements the proposal to dispose of it needs to be advertised.

3.5 In accordance with Section 123 (2A) of the Local Government Act 1972, the Council has advertised its intention to dispose of “Land known as The Green, Salt Lake, situated between the Portway and Eastern Promenade, Porthcawl” (see attached plan in Appendix 1), by way of Notice for two consecutive weeks on 4th April 2018 and 11th April 2018 in the Glamorgan Gazette and on site. The Notice required any objections to the proposed disposal of the public open space to be made in writing no later than 30th April 2018.

4. Current Situation

4.1 Objections to the Proposal:

Six objections have been raised by individuals and local organisations (see appendix 2) which can be categorised as follows:

4.1.1 Objection 1 : The objector is concerned at the loss of public open space for housing development and building on much loved wilderness, a place of natural beauty and much needed flood plain. They are concerned that the sale of the freehold interest will be to an owner interested in making money and not in the best interest of Porthcawl.

4.1.2 Objection 2 : the objector is concerned that the disposal of the freehold to a developer will take place without scrutiny from Porthcawl Town Council to ensure adherence to the planned development of the sites and how this will be enforced.

4.1.3 Objection 3: the objector wants local councillors to be informed first and is unhappy at the potential purchaser being able to do whatever they want, irrespective of whether it will benefit regeneration of Porthcawl. They are concerned that there do not appear to be conditions on the sale and suggest that public consultation should take place to set these conditions, as the land is classed as public open space and is used and owned by Porthcawl residents.

4.1.4 Objection 4 : the objector was not aware that the land was designated as Public Open Space. They refer to Welsh Government Planning Policy Wales Technical Advice Note “Sport, Recreation and Open Space” and high density flat development requiring even greater protection of open space for recreational facilities. Along with reference to Para 4.1.25 of Bridgend LDP 2006-2021 Deposit plan which provides further guidance. They are concerned that insufficient land for amenity use will be allocated within the development.

They have proposed an alternative location for the food store and previously suggested that the proposed food store should be located on Council owned land in Dock Street instead of The Green.

They highlight that the Green's past history includes the inner dock swimming facilities and believe that future policy should be to develop this area as an outdoor recreational facility and not extinguish rights of access to public open space.

They are also concerned at lack of consultation with town councillors.

4.1.5 Objection 5: the objector is concerned at the loss of public open space and the resulting loss to the community

4.1.6 Objection 6: this objection relates to the sale of the land for use as a retail supermarket development, which will result in the loss of public open space, which would be a loss to the community. They believe that the location of the site is unsuitable for use as foodstore by pedestrians and those with mobility issues. They are also concerned regarding the level of bus services and public transport provision and the need for a new bus station.

4.2 Summary of the Objections

The key common themes regarding why objectors consider that the public open space should not be disposed can be summarised as:

- Loss of open space and the impact on the community;
- Lack of safeguarding ;of existing and future provision of recreational facilities
- Lack of consultation with the Town Council and others;
- Lack of control over the disposal and eventual development and use of the land;
- Concern that part of the site is not suitable for development as a foodstore (which is the proposed use for the northern portion) and suggested alternative locations for the food store.

4.3 Response to Objections

4.3.1 The paragraphs below provide a response to the above objections and the reasons why it may be appropriate to grant approval to the application to dispose of the site:

4.3.2 It should be noted, that from communication received from interested parties, there may have been some confusion regarding the identity and location of land which was included within the published notices. The Notice referred to "Land known as The Green, Salt Lake, situated between the Portway and Eastern Promenade, Porthcawl" but according to communications received there was an assumption that only an area known as "the Green" (which is the northern part of the site) was included. However, the plan referred to in the Notice which was available to be viewed at the Civic Offices (shown as appendix 2), and which clearly shows that it includes all of the land within the Council's ownership at The Green (the northern part of the overall site) and Salt Lake.

4.3.3 Loss of open space and the impact on the community:

The site is not laid out as formal public open space. A large portion of the site has been utilised as a roughly surfaced car park for many years – previously by a third party who held a long lease of the land - and currently by the Council. Much of the area known as The Green (and which is located at the Northern end of the site), has been utilised more recently as a long term site contractor's compound. So whilst the public have been able to access

and cross the sites at different times, they have not had exclusive use or right to do so. The main impact on the current use of the site will be the loss of the car park and this will need to be considered within the master planning for the site.

4.3.4 Lack of safeguarding of existing and future provision of recreational facilities:

As mentioned in the above paragraph, the site does not currently provide recreational facilities. Although the public can access the site, it's primary use is as a car park. The need for recreational facilities will be considered within the planning context and master planning of the site.

4.3.5 Lack of engagement with the Town Council and others:

The Notice is a precursor to enabling the Council to dispose of the above land. Currently the Council is preparing all of the background information relating to highways, planning, infrastructure, ground conditions, prior to marketing the site for sale.. The intention is to engage with others on the wider master planning for the site in due course.

There seemed to be a misunderstanding that the Council had already marketed the land and is in the process of finalising a sale, which is not the case.

4.3.6 Lack of control over the disposal and eventual development and use of the land:

As mentioned above, the Council has not yet marketed the sale of this site. The marketing pack will provide details on the likely acceptable planning uses and will set out the basis on which the Council is prepared to dispose of the land, whether this is by way of a freehold or long leasehold interest in the site. Heads of terms will then include any legal conditions and requirements ensuring the delivery of the development, the use of the site and the sale price generated, in order to ensure that the Council's interests are suitably protected.

4.3.7 Concern that the site is not suitable for development as a foodstore and suggested alternative locations:

This is not really a matter for consideration under Section 123(2A) of the Local Government Act 1972, as the process relates to the general principle of disposing of Council owned land, which is considered to be public open space and not its actual use by future purchasers.

As land owner the Council's view is that there is merit in retaining and enhancing the existing main public car park at Hillsborough Place and ensuring parking provision as close to the town centre as possible; rather than developing this site and relocating the car park elsewhere. However, any future proposed land use will be a matter which will be controlled and determined by the Council in its capacity as Planning Authority.

5. Effect upon policy framework and procedure rules

5.1 None

6. Equality Impact Assessment

6.1 There is no requirement to undertake an Equality Impact Assessment for property disposals.

7. Well-being of Future Generations (Wales) Act 2015 implications

- 7.1 The Well-being of Future Generations (Wales) Act 2015 Assessment based on the 5 ways of working has been considered and there are no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed disposal of land at The Green and Salt Lake car park.

8. Financial implications

- 8.1 The capital receipt generated from the sale of this site could contribute towards the Council's capital programme and a significant proportion is to be re-invested into infrastructure improvements within the Porthcawl Regeneration area.

9. Recommendation

- 9.1 That Cabinet, having considered this Report and the objections received in response to the Notices published in accordance with Section 123(2A) of the Local Government Act 1972, authorises the disposal of land at The Green and Salt Lake car park, Porthcawl.

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Background documents:

None