

WIRRAL COUNCIL

CABINET - 15 JANUARY 2009

REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

THE WARRENS NURSERY, THINGWALL

1. EXECUTIVE SUMMARY

1.1 The purpose of this report is to advise Members of the responses to the statutory advertising of the proposed disposal of land and designated Public Open Space at the Warrens Nursery, Thingwall, to Wirral Primary Care Trust "the PCT" to facilitate the construction of a Health Centre.

2. Background

2.1 Cabinet will recall that it last considered a report on the redundant nursery site and depot buildings at the Warrens, Thingwall on 16th October 2008. At that meeting it resolved that:

- (1) The land at the Warrens Nursery be declared surplus to requirements and authorises its disposal, subject to planning permission being obtained and satisfactory terms being agreed.
- (2) The District Valuer be jointly commissioned by the Council and the PCT to determine the value of the premium for lease.
- (3) Any provisionally agreed terms of disposal be reported to a future Cabinet
AND
- (4) Any objections received in respect of the disposal of Public Open Space, associated with this proposal be reported.

2.2 Accordingly, the statutory requirement to advertise the disposal of Public Open Space in this location was complied with by placing Public Notices in the local press on 10th and 17th of December 2008.

The closing date for written objections was 7th January 2009.

3. Responses to the Statutory Advertisements

3.1 The Council received 31 individual objections to the proposed disposal of this area of Public Open Space, with an additional 8 from the following organisations:

- Open Spaces Society,
- Wirral Footpaths and Open Spaces Preservation Society
- Wirral Society
- Barnston Conservation Society 1984 and the
- Friends of Arrowe Country Park.
- Friends of Ashton Park
- Wirral Parks Partnership
- Wirral Green Belt Council

- 3.2 In summary, the principle bases for the objections to the proposed sale of Public Open Space in this location, were as follows:
- The land is within the Green Belt.
 - The land is part of Arrowe Park.
 - The land should be used for horticulture/allotment purposes.
 - Highway congestion and traffic safety, loss of woodland, wildlife habitat and footpaths.
 - The land should be used for a library or community centre.
 - The public have rights of access over the land.
 - The PCT should find an alternative site in the vicinity.
- 3.3 Copies of all the objections received are attached to this report, but without individual's names and addresses. This has been done as those that have responded may be unwilling for their personal details to be published and there has been insufficient time to contact them to seek their agreement to do so.
- 3.4 Members will recall that the Cabinet's decision to proceed with the proposed disposal of land at the Warrens to the PCT was reviewed by the Corporate Services Overview and Scrutiny Committee on 10th November 2008. The issues and concerns raised at that meeting are reflected widely in the written objections received to the sale of Public Open Space in this location. The Committee resolved (Minute 21 refers):
- That this scrutiny Committee recognises the strong feelings of the witnesses to this Committee. The issue in front of the Committee is simply whether or not the Council should dispose of this land. Any decisions on planning matters are for the Planning Committee and if necessary the Planning Inspector to decide. That is the proper forum for many of the views expressed tonight. In the light of the current condition of the site and the Council's need to dispose of it, this Committee endorses the Cabinet recommendations.*
- 3.5 The Council is required to consider these objections and decide whether the Cabinet's previously agreed intention to dispose of Public Open Space to the PCT is outweighed by the objections received opposing this course of action. However, it has discretion as to whether to accept them or to proceed with the proposed disposal of the Public Open Space in question. Members will be aware that many of these issues, in particular the most numerous objection that the land is within the green belt and is part of Arrowe Park, will be addressed by the Planning Committee when the PCT applies for planning permission. The planning issues are not a matter for Cabinet but are a matter for consideration by the Planning Committee if and when an application for planning permission is submitted. The issue for Cabinet to consider is whether the land should be sold.
- 3.6 It is not considered that the objections lodged raise any significant issues which have not already been considered by Members. Therefore, it is recommended that Cabinet endorses its earlier decision to dispose of the land subject to planning permission being obtained.

- 3.7 In the event that Cabinet resolves to continue with the proposed disposal to the PCT, I also recommended that Call-in is waived. The adjourned Public Inquiry in respect of the other part of the site has been re-scheduled for 10 to 13 February 2009. The Call-in period will probably expire around 26 January and, if five working days are allowed before the Call-in is considered by the Corporate Services Overview and Scrutiny Committee, only five working days will remain before the Inquiry commences. If the Inquiry is to be cancelled, the Council will need to have exchanged contracts with the PCT beforehand and that work cannot take place until the Call-in process is concluded, or waived. The PCT has indicated that it requires contracts to be exchanged by 31 January 2009, in order to withdraw its appeal in respect of the other site. Given these tight timescales, the Council and the PCT will need to prepare for the Inquiry (in case agreement cannot be finalized in time) and brief Counsel, thus incurring significant legal costs.
- 3.8 As this matter has already been subject to Call-in, I believe treating the decision as Urgent and waiving Call-in better serves the public interest. The criterion for judging when a decision is Urgent is whether: 'any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest'. In my view, the wasted costs likely to be incurred by the Council and the PCT preparing for the Inquiry whilst a Call-in notice was considered by Overview and Scrutiny would seriously prejudice the Council's and the public's interest. In accordance with the Constitution the Chief Executive is satisfied that the decision proposed (the disposal to the PCT) is 'reasonable in all the circumstances' and has also agreed, should Cabinet so resolve, that the decision may be treated as Urgent: i.e. to the waiving of Call-in.

4. Financial implications

- 4.1 The site is currently a liability requiring maintenance by the Council and is not used. If Cabinet resolved to dispose of the site it is suggested that it be leased to the PCT on a 125-year lease. The lease would be limited to use of the site as a health centre with an absolute prohibition on any other use. The premium will need to be agreed following the valuation by the District Valuer. This is expected to be in line with figures previously reported to Cabinet.

5. Staffing implications

- 5.1 There are no staffing implications arising out of this report.

6. Equal Opportunities implications

- 6.1 None

7. Community Safety implications

- 7.1 None

8. Local Agenda 21 implications

- 8.1 The new Health Centre would be built to the latest standards for energy consumption and insulation, etc.

8.2 The site is well situated in terms of accessibility by public transport, as several bus routes pass within 5 minutes walking distance.

9. Planning implications

9.1 There is a statutory requirement to determine planning applications in accordance with the Development Plan unless it can be demonstrated that material considerations indicate otherwise. A planning application at this site, which departs from the policies in the adopted Development Plan would need to be referred to the Secretary of State before planning permission could be granted.

9.2 Planning permission will be required for the new Health Centre. The Unitary Development Plan for Wirral shows the site as within the Green Belt. Proposals outside the use of the site as a nursery, and any new buildings, will require planning permission. A proposal for new build development will be subject to UDP Policies GB2 'Guidelines for Development in the Green Belt', TL11 'Development at Countryside Recreations Sites, GR7 'Trees and New Development and TR9 'Requirements for Off Street Parking. Inappropriate development can only be considered if there are very special circumstances to outweigh the objectives of Green Belt Policy.

10. Anti-poverty implications

10.1 None

11. Human Rights implications

11.1 None

12. Social Inclusion implications

12.1 None

13. Local Member Support implications

13.1 This report will be of particular interest to Members in the Pensby and Thingwall Ward.

14. Background Papers

14.1 Reports to Cabinet 23rd July 2008, 29th November 2007, 28th June 2006, Social Care and Health Select Committee, 2nd September 2004, 18th January 2006.

15. Strategic Asset Management Implications

15.1 The Council's Asset Management Plan requires land and building to be used to support corporative objectives. This transaction proposes to dispose of a surplus asset, which is currently a liability, for community health purposes.

16. Strategy Context

- 16.1 The development of a Health Centre would be in line with Strategic Objective 3, “to improve health & wellbeing for all, ensuring people who require support are full participants in mainstream society”.

17. RECOMMENDATIONS

- 17.1 That Cabinet notes the objections received and agrees to proceed with the proposed disposal in accordance with its decision on 16th October 2008.
- 17.2 That the Director of Law, HR and Asset Management is authorised to agree the premium payable, following the valuation by the District Valuer, in consultation with the Leader and Deputy Leader of the Council; and
- 17.3 That the Director of Law, HR and Asset Management be authorised to enter in to the necessary legal documentation to dispose of the land to the PCT on the terms outlined in this report.

Bill Norman

Director of Law, HR and Asset Management