



PORTFOLIO HOLDER DECISION NOTICE

INDIVIDUAL DECISION BY THE PORTFOLIO HOLDER FOR FINANCE & RESOURCES

TOPIC - LAND ADJACENT TO WYKEHAM CARAVAN PARK AND MERRYOAK MORN HILL WINCHESTER.

PROCEDURAL INFORMATION

The Access to Information Procedure Rules – Part 4, Section 22 of the Council's Constitution provides for a decision to be made by an individual member of Cabinet.

In accordance with the Procedure Rules, the City Secretary and Solicitor, the Chief Executive and the Director of Finance are consulted together with Chairman and Vice Chairman of the Principal Scrutiny Committee and all Members of the relevant Performance Improvement Committee.

Five or more of these consulted Members can require that the matter be referred to Cabinet for determination.

Contact Officers:

Case Officer: Brian Bottrill Tel 01962 848441 email bbottrill@winchester.gov.uk

Committee Administrator: Dave Shaw tel 01962 848221

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SUMMARY

- Investigations have shown that the adjoining owners of the caravan park adjacent to the Council owned Magdalen Hill cemetery extension field have encroached to a minor degree into the field.
- In order to rectify the situation the Council can take one of two possible alternatives.; This is to either to take legal action against the owner of the caravan park which could prove lengthy and costly or to sell a small 2 metre wide strip of land to cover the encroachment.
- The owner has formally approached the Council with a view to purchasing the land in question.
- Negotiations have resulted in an offer to purchase the strip shown marked A on the attached plan for a consideration of £1,750 and to pay all the Council's costs in dealing with the matter.
- He has also agreed to carry out detailed landscaping requirements including a rabbit proof fence as set out by the Council's Landscaping Dept and to maintain the newly planted hedging for a three year period from the date of planting.
- The Estates Department have carried out a full consultation exercise to include all interested departments together with Ward members and no objections have been received.
- The Council have also been approached by the owner of the adjoining property Merryoak requesting if they too could purchase a similar 2 metre strip to the rear of their property shown marked B on the plan. This would be subject to agreeing a

figure for the land, provision of identical fencing and landscaping and also the payment of the Council's costs in the transaction. It is expected that likely consideration would be a minimum of £1000.

- By agreeing to sell the land the Council would avoid having to take potentially costly court action against the park owner and will benefit from improved landscaping of the boundary and would avoid the future necessity of having to plant appropriate hedging as and when the extension field is required which is unlikely for at least a further 15 years.

DECISION

1. That the Chief Estates officer be authorised to agree the sale of the land to the owner of the Caravan Park on terms as specified in this report
2. That the Chief Estates officer be authorised to negotiate terms for the sale of the land to the rear of Merryoak for a consideration of not less than £1000 with the owner being responsible for all costs including that of fencing and landscaping.

REASON FOR THE DECISION AND OTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- As already indicated, costs of litigation can be prohibitive especially where the boundary is not clearly defined, as it is in this case.
- By taking this course of action the Council will receive not only a capital sum for the land but more importantly the boundary will be clearly defined and a newly planted hedgerow to specific screening specifications will be provided at no cost to the Council.
- The sale of the adjoining land to "Merryoak will also clearly define the boundary and provide a further capital sum and appropriate hedging.
- The loss of this small area of land will have minimal impact on the future use of the field for cemetery purposes.
- The boundary in question would require appropriate screening/ landscaping by the Council prior to the use of the land as an extension to the cemetery. Work done now to an appropriate standard, agreed with adjoining owners will lessen future costs to the Council.

FURTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED FOLLOWING PUBLICATION OF THE DRAFT PORTFOLIO HOLDER DECISION NOTICE

- Concern has been expressed as to whether the Council should take legal action as opposed to taking the "line of least resistance".
- It is considered that it is in the Council's interest in this particular case to deal with matter without recourse to costly Legal action over what is considered a minor encroachment and where the line of the existing boundary would be difficult to verify. Additionally the council will materially benefit by having a new clearly defined boundary with landscaping carried out to agreed specifications in order to provide future screening for the proposed future Cemetery extension.
- The benefit of receiving a capital sum together with having landscaping works carried out to The Council's specification is considered preferable than the uncertainty and costs of taking legal action.

DECLARATION OF INTERESTS BY THE DECISION MAKER OR A MEMBER OR OFFICER CONSULTED

None

DISPENSATION GRANTED BY THE STANDARDS COMMITTEE

None

Approved by: (signature)

Date of Decision

Councillor Kelsie Learney – Portfolio Holder for Finance and Resources