

WEST OXFORDSHIRE DISTRICT COUNCIL
CABINET
17 NOVEMBER 2017
POLICY FOR DISPOSAL OF AMENITY LAND
REPORT OF FRANK WILSON
(Contact: Frank Wilson Tel: (01993 861291)

(The Cabinet's decision on this matter will be a resolution)

1. PURPOSE

To consider a co-ordinated approach to requests for release of amenity land for household use.

2. RECOMMENDATION

That the Cabinet resolve to agree a policy that amenity land as described in s 106 agreements be retained and not sold or transferred to households except where an obvious drafting error has been made in those agreements or in the implementation of them by a developer.

3. BACKGROUND

- 3.1. From time to time officers and councillors are approached by householders with regard to small plots of amenity land which the householders see as being of little or no community benefit and which incurs expense (albeit on a marginal basis) for the Council in maintenance.
- 3.2. These pieces of land are usually part of planning agreements (s 106) and more often than not are transferred to Council ownership upon the completion of a housing development. These agreements restrict the usage and disposal of the land with any subsequent change of use or ownership requiring the consent of beneficiary of the covenant (usually the developer).
- 3.3. The Council has historically not set a policy in respect of these pieces of land and therefore this creates significant officer time dealing with these issues as householders tend to see these as individual cases rather part of a more holistic approach to amenity land maintenance and management.
- 3.4. Householders tend to want these pieces of land for two principle reasons, firstly, to extend their garden or, secondly, to extend their house. In both cases this would be seen to increase the value of their property and therefore the Council and/ or the beneficiary of the covenant, would likely see some commercial value from such a transaction. There are also likely to be planning considerations from such a transaction.
- 3.5. Two recent examples of the requests are shown in at Appendix A for information.
- 3.6. The examples show the central issues involved here – both represent, individually, little risk for the council or indeed for the overall impact of the amenity land so, in practice, could be put forward to the beneficiary of the covenant for consideration.
- 3.7. However the Council should also consider the broader impact on structure of the amenity land and the impact of creating a precedent that it could in future be forced to follow. In these circumstances

the Council be selling a portion of land could create a patchwork of land which becomes increasing more difficult and expensive to maintain and, in the worst case land locked parcels of land that require access licences to maintain.

4. POLICY PROPOSAL

- 4.1. Given the risks set out in 3.7 it is proposed that the Council approve a policy that it should not dispose of amenity land that forms part of a larger landscaping zone which is integral to the fabric of an estate or housing development.
- 4.2. This policy should be caveated with the ability to correct any obvious errors in the drafting of any planning agreements or subsequent implementation of those planning agreements by any developer.

5. FINANCIAL IMPLICATIONS

- 5.1. The Council could potentially share in a capital receipt from the sale of small plots of amenity land with the beneficiary of any covenants held. The value of this sum foregone through the application of this policy is impossible to establish as it would be affected by the use of the land (use for a garden would have lower value than if use for house extension).
- 5.2. Any potential savings in maintenance costs would be immaterial and potentially there could be increased cost if a resultant patchwork of amenity land became more difficult to maintain.

6. RISKS

- 6.1. If the Council adopts a policy of disposing of small parcels of land (assuming covenant holders consent is given) then it risks breaking up the landscaping fabric established through the planning process to enhance housing developments.
- 6.2. Should the Council dispose of parts of amenity land it will find difficulty in defending subsequent applications from other householders.

7. REASONS

- 7.1. To protect the environment whilst supporting the local economy

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Background Papers:

None