

15 September 2015

Policy, Finance and Resources Committee

Fron Cottage

Report of: *Adrian J Tidbury, Estates and Valuation Surveyor*

Wards Affected: *Shenfield*

This report is: *Public*

1. Executive Summary

- 1.1 This report considers the request from the owner of Fron Cottage, Alexander Lane Shenfield to acquire land adjacent to his property as 'garden land' to increase the size of the available garden.
- 1.2 Members will be aware that the Asset, Infrastructure and Localism Panel held on 12 February 2012 resolved to accept the Asset Strategy reported which included the sale of minor strips of land of no value to the Council.
- 1.3 A number of residents declared an interest in this initiative including the owners of Fron Cottage.

2. Recommendation(s)

- 2.1 That the valuation of the Council's agent in the sum of £15,000 for a 99 year lease be accepted. or**
- 2.2 That the valuation of the Council's agent in the sum of £1,500 p.a. for the provision of a license to occupy the land as garden land be accepted**
- 2.3 That should the owner of the property not accept the terms offered by the Council the land be returned to form part of the Alexander Lane playing fields**

3. Introduction and Background

- 3.1 The Council was approached by the prospective purchasers of the property in April 2014. The purchasers indicated that were made aware that the seller of the property had a Garden License covering the land in question and approached the Council for the License to be transferred into the name of the purchaser following the acquisition of the property.
- 3.2 The Garden License to the previous owner of the property is shown in Appendix A
- 3.3 The purchase of the property was completed in July 2014 when the owner again contacted to Council to commence the process for the purchase of the land.
- 3.4 the established process is as follows:
- Discussions with Chair of Asset committee now Policy, Finance & Resources Committee
 - Agreement from Ward members to proceed
 - Valuation of the property
 - If valuation is below £10,000 and at best value proceed to sale
- 3.5 Should sale or lease rental be over £10,000 or at less than best value, committee approval would be required.
- 3.6 Delegated authority was sought in September 2014 under the decision of the Asset, Infrastructure and Localism Panel held on 28 February 2012, to proceed with the sale of the land to the owner.
- 3.7 The valuation of the land was received on 12 December 2014 and is shown in appendix B.
- 3.8 The valuation of the property exceeded the limit for delegated authority and therefore needs committee authority to proceed.
- 3.9 The valuation was provided to the applicant on 22 January 2015 with the understanding that the applicant was required to enter into either a lease of the land or a license to occupy the land. I no agreement is reached with the applicant then the land would need to be return to the Council as they are currently in unlawful occupation.

- 3.10 Due to the value of the land the resident requested the Council on 23 January 2015 to consider the provision of a new license and the Council valuer was asked to advise on the suitable license fee.
- 3.11 The valuer's response was received 14 April 2015 and is contained in appendix C
- 3.12 The applicant has funded the valuation and in response has made an offer to the Council of £10,000 to purchase the land or £400 p.a. to rent. However, this is some £5,000 short of best value for a purchase and £1,100 for a rental.

4. Issue, Options and Analysis of Options

- 4.1 The original garden License fee to the previous owner was in the sum of £50 p.a. which can only be considered as a token value as it does not reflect any true valuation of the land. This is the case with the majority if not all such licenses for land and access on Council property.
- 4.2 The applicant is concerned that there is a significant increase in the yearly cost of the license although it has been explained as the difference between a token value and the actual value and clearly indicates the loss of income from this license and the many others across the Borough.
- 4.3 The applicant is aware that he is in unlawful occupation of the land and needs to regularise the situation either by entering into a 99 year lease of the land with a single payment or entering into a license to occupy the land with a yearly license fee.
- 4.4 Members will be aware that the 27 March 2015 Asset and Enterprise Committee agreed new policies under the report Asset Acquisition, General Disposal and Disposals at less than Best Value.
- 4.5 The policy shown in appendix D sets out the statutory background to property disposals
- 4.6 Para 2.1 of the policy sets out section 123 of the Local Government Act 1972 in that Councils, except with the expressed consent of the Secretary of State, cannot dispose of land (other than by way of a short tenancy i.e. grant of a lease term not exceeding 7 years) for consideration less than best that can be reasonably obtained in the market.
- 4.7 Para 2.2 of the policy sets out General Disposal Consent (England) 2003 which gives local authorities greater freedom to dispose of any interest in

land at less than best consideration without specific consent to the Secretary of State. Under this General Disposal Consent local authorities may consider disposal at a reduced price if the purpose for which the land is to be disposed of is likely to contribute to the promotion or improvement of the economic, social or environmental well being of its area.

- 4.8 it is clear from the policy and from the legislation that there is no facility for the Council to offer the land at less than best consideration for a term longer than 7 years as there is no community benefit being provided by the applicant.

5. Reasons for Recommendation

- 5.1 To consider the request from the owner of Fron Cottage, Alexander Lane Shenfield to acquire land adjacent to the property as 'garden land' to increase the size of the available garden.

6. Consultation

- 6.1 No formal consultation has been undertaken or is required

7. References to Corporate Plan

- 7.1 Value for Money: policies that invest in key services to create opportunity for all, provide better value for Brentwood's taxpayers and enhance the Borough's infrastructure whilst modernising and transforming Brentwood Borough Council. We will re-prioritise and focus our resources and be innovative in our approach.
- 7.2 Our Borough: Policies which promote our environment, support sustainable growth, and safeguard our high quality environment including heritage and countryside. We will provide responsive, accessible and forward thinking services for vulnerable residents, supporting people back into work and providing good quality housing making Brentwood our residents' Borough of Choice.

8. Implications

Financial Implications

Name & Title: Chris Leslie, Finance Director

Tel & Email: 01277 312542 / christopher.leslie@brentwood.gov.uk

- 8.1 The lease or licence of the land will generate additional resources for the Council.

Legal Implications

Name & Title: Christopher Potter, Monitoring Officer and Head of Support Services

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8.2 None directly arising from this report.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

9. Background Papers (include their location and identify whether any are exempt or protected by copyright)

None

10. Appendices to this report

Appendix A – Garden License to Previous Owner

Appendix B - Valuation

Appendix C – Valuers' response to rental

Appendix D - Less than Best Value Policy

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