

## Wyre Forest District Council

### Record of a Council Decision delegated to be made by an Officer

This includes a record of an Executive Decision made by an officer under Regulation 13, Part 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

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| <b>Item decided: To respond to the request to purchase land from the District Council adjacent 37 Yellowhammer Court, Spennells, Kidderminster</b> |   |
| <b>Officer who has taken the decision</b>  | <b>Corporate Director: Economic Prosperity &amp; Place</b>  |
| <b>Date of the decision</b>  | <b>9<sup>th</sup> January 2020</b>  |
| <b>Reason for the decision/alternatives considered</b>   | <p>An application was received from the owner of 37 Yellowhammer Court to purchase a piece of land from the District Council which currently forms part of a wider area of open space. The request was advertised in the Kidderminster Shuttle in December 2019 in accordance with Section 123 of the Local Government Act 1972. A total of 7 representations were received objecting to the proposed sale and the reasons raised and the response to them are attached to this decision.</p> <p>The decision is that the land should not be sold; the land forms part of a wider swathe of open space and the reconfiguration of what is currently a uniform boundary of rear and side garden fences bounding the open space would be disrupted and appear incongruous if the fence were moved to accommodate this land into the garden of 37 Yellowhammer Court. Further, the land requested for sale at this part of the open space is at the narrower 'entrance' to the wider open space from Captain's Pool Road running towards Heronswood Road and it again would appear incongruous to realign the boundary of the open space at this point and would narrow the point of access.</p> |

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|  | <p>It is clear that the open space on this part of the Spennells estate has been purposefully designed for the wider benefit of the estate and to agree to the removal of part of it for domestic garden purposes will set an undesirable precedent that would begin to erode the value of the open space at this location.</p> |
| <p><b>Date and source of Delegated Decision (if appropriate)</b></p> | <p><b>Strong Leader Decision dated 4<sup>th</sup> December 2019.</b></p>  |
| <p><b>Council/Cabinet member consulted – if applicable</b></p>       | <p><b>Cabinet Member for Economic Regeneration, Planning &amp; Capital Investments</b></p>  |
| <p><b>Any interest declared by the Consultee or officer</b></p>      | <p><b>None</b></p>  |

## Disposal of Open Space adjacent 37 Yellowhammer Court, Spennells, Kidderminster in accordance with s123 of the Local Government Act 1972

Section 123 of the Local Government Act 1972 stipulates that:

*“(2A) A principal council may not dispose under subsection (1) above of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.”*

The Council advertised its intention to dispose of the land adjacent 37 Yellowhammer Court, Spennells, Kidderminster in consecutive weeks in the Kidderminster Shuttle on 12 December 2019 and 19<sup>th</sup> December 2019. A total of 7 representations were received in response to the advertisement.

A summary of the objection and the Council’s response is set out below.

| <b>Objection</b>  | <b>Response</b>   |
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| Open space is being lost in the Spennells area and this will exacerbate that loss. Once lost it will not be replaced.   | This point is noted, although the land in question is only very small in relation to the wider open space across the estate.  |
| Could lead to development of the land by an extension or garage.  | This can be prevented by condition on the sale requiring it to be used only as garden land.   |
| Would set a precedent and encourage others to apply for the same which would be hard to resist.   | There are certainly many more instances where similar proposals might be received for extensions to gardens which adjoin or back onto the open space; but this isn’t the first such request and others have been granted elsewhere on the estate.   |
| The open space which is there for the benefit of everyone on the estate and should not be lost. It is an original characteristic of the estate as planned by the architects and planners. | This point is noted. It is apparent that this piece of land is part of a wider swathe of open space which runs from Heronswood Road south to the wider fields and open spaces and footways off Stanklyn Lane. It is clear that this swathe was purposefully designed to provide an open space and wildlife corridor along Captain’s Pool Road and its loss would undermine the original design concept. |
| Areas of open space such as this should be protected for their aesthetic, recreation, wellbeing and wildlife value.   | This point is noted.  |
| Would be an erosion of the viability of the open space and the environmental, physical and mental benefits it offers.   | This point is noted, but it is recognised that this is only a very small piece of land relative to the wider open space on the estate.  |
| Would result in the loss of some young trees.   | It is unlikely that this land would impact on the nearby trees.   |

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| <p>Sale of land would require re-alignment of the parallel pathway.</p>   | <p>It is clear that the land proposed for acquisition is at the narrowest point of the wider swathe of open space at this frontage with Captain's Pool Road where access and egress is gained and that by agreeing to the land being taken out of the open space will create a narrower point of access which will appear aesthetically incongruous. It is also clear that this point of access is intended as part of the wider point of connection with the open land to the south of Captain's Pool Road and it thus plays an important role in ensuring the seamless connectivity of the wider swathe of open space.</p> |
| <p>The Spennells estate was originally designed with the balance of housing, parks and pathways to be attractive and to house higher income residents and maintain house prices. Piecemeal erosion of this could result in lower house prices, 'ghettoisation', alienation of residents and loss of wildlife, all contributing to declining economic, social and environmental standards.</p> | <p>It is difficult to see that the loss of such a small piece of land from the open space will have consequences of such magnitude.</p>  |
| <p>Would create an uneven boundary to the open space.</p>   | <p>This point is noted and agreed; at present the boundary of the residential units and the open space is uniform and straight and by extending the garden as proposed by taking this part of the open space it will no longer be uniform.</p>   |
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