

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Thursday, 19 January 2023</b>
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Disposal of Land to the Rear of 42 & 46 Fonmon Park Road
Purpose of Report:	To seek approval to dispose of a small parcel of land located at the rear of 42 & 46 Fonmon Road, Rhoose subject to agreeing a suitable sale value together with terms and conditions.
Report Owner:	Report of the Cabinet Member for Neighbourhood and Building Services
Responsible Officer:	Miles Punter - Director of Environment and Housing
Elected Member and Officer Consultation:	Matt Sewell - Accountant Neighbourhood Services Lorna Cross - Operational Manager - Property Committee Reports - Legal
Policy Framework:	This a matter for Executive decision by Cabinet
<p><b>Executive Summary:</b></p> <p>The Council owns various small parcels of land which border or adjoin existing privately owned properties that are not suitable for development but are a continuing burden on the Council due to their ongoing maintenance and security costs.</p> <p>The land identified at Appendix 'A' in this Report is surplus to the Council's requirements and the Report recommends that the land is sold to the adjacent property owners, namely the registered proprietors of 42 &amp; 46 Fonmon Road, Rhoose.</p> <p>As this land can only be used by the adjoining residents, the Council is not required to advertise its disposal. In this instance only the loss of areas of Public Open Space requires advertisement.</p>	

## **Recommendations**

1. That, subject to recommendations 2-5, the land identified at Appendix 'A' to this Report be declared surplus to the Council's requirements and a parcel sold to each of the adjacent property owners, namely the registered proprietors of 42 & 46 Fonmon Road, Rhoose at market rate, subject to covenants restricting future development on the land being included in the terms of sale.
2. That authority is delegated to the Monitoring Officer / Head of Legal and Democratic Services to advertise the proposed loss of two small parcels of open space land (in accordance with s.123 (2A) of the Local Government Act 1972) which are intended to be sold to the adjoining residents.
3. That the Head of Finance be authorised to appoint an external valuer to provide a market valuation report for the land referred to in Appendix 'A' and agree Heads of Terms for the sale in consultation with the Head of Neighbourhood Services and Transport.
4. That any objections to the public open space notice be reported back to Cabinet for consideration prior to any final decision on disposal.
5. That if there are no objections to the public open space notice advert the Monitoring Officer / Head of Legal and Democratic Services be authorised to complete all necessary legal documentation required to dispose of the land.

## **Reasons for Recommendations**

1. To allow a parcel of land to be transferred to each of the occupiers of the neighbouring properties
2. To ensure the Council's fiduciary and statutory obligations are met within the transaction by ensuring compliance with Section 123 (2A) of the Local Government Act 1972, the land being part of an open space.
3. To allow for the land to be disposed on suitable terms and conditions.
4. To ensure public open space notice process is followed correctly and any potential objections are considered.
5. To legally formalise the disposal of the land.

## **1. Background**

- 1.1 The Council owns a children's play facility located at Nurston Close in Rhoose. This playground borders several properties located on Fonmon Road where there has been encroachment onto the Council's land.
- 1.2 Following discussions with some of the residents in Fonmon Road during 2018 an application was made by the owners of 42 & 44 Fonmon Road to each purchase the piece of Council land that they currently occupied. It is understood that this land has been encroached upon for more than 10 years and the Council would

have difficulty in regaining possession. Therefore, the Council would not be required to advertise the disposal of this land. However, the disposal of areas of Public Open Space will need to be advertised.

- 1.3** Cabinet approval was given at the Cabinet meeting held on 17th December, 2018 to progress with the disposal ([Disposal of Land - Rear of 42 Fonmon Road Rhoose \(valeofglamorgan.gov.uk\)](#), [Minutes \(valeofglamorgan.gov.uk\)](#) ). The sale of land to the owners of 44 Fonmon Road progressed as proposed and was duly completed. However, the owners of 42 Fonmon Road, after the report of 2018 was approved, requested the inclusion of a small additional area of land (See Appendix A: the cross hatched area is the original area being purchased by the owners of 42 and the triangular area edged red is the additional area to the rear of 42 that the owners now wish to purchase).
- 1.4** Further, the owners of 46 Fonmon Road, who had initially expressed interest in the option of acquiring some land but decided not to proceed have recently asked if the purchase of the area to the rear of 46 is still an option (see Appendix A: Map showing red-line area for potential disposal to the rear of 46). The owners of no.46 have not encroached on to the Council's land but the area they wish to purchase is planted with conifer trees which they will maintain.
- 1.5** At the time of the original report (2018) the cost of the Open Space Notice for land disposal was covered by the authority but since then the procedure has changed in as far as the potential purchaser is to cover these costs. However, due to the time it has taken for the enquiry to be progressed due to available officer time and the period of the pandemic raising higher priorities it is felt on this occasion this cost of advertising could be covered by the Council.

## **2. Key Issues for Consideration**

- 2.1** The Council has received enquiries in respect of two small pieces of land to the rear of Nos. 42 and 46 Fonmon Park Road, Rhoose. This land is currently managed by or under the control of the Neighbourhood Services and Transport team. The parcels of land are edged red on the plan at Appendix 'A'.
- 2.2** The Council can dispose of such land if it is no longer required for its operational purposes, it has been declared surplus to requirements and it has consent for the disposal.
- 2.3** Subject to complying with the relevant legislative provisions and any statutory consents required, permission is now sought to dispose of the parcels of land. This will generate a small receipt for the Council and reduce ongoing costs associated with retaining it.
- 2.4** The disposal will be subject to the Council receiving best consideration for the land and complying with any other appropriate terms and conditions of sale the Council deems appropriate.

- 2.5 At the time of the original Report in 2018 the costs of the Open Space Notice were covered by the authority for land disposal. Since then, the procedure has changed in as far as the potential purchaser is required to cover these costs. However, due to the time it has taken for the enquiry to be progressed, due to available officer time and the period of the pandemic raising higher priorities it is felt on this occasion these costs will be covered by the Council.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

#### LONG TERM

- 3.1 Better use of land should be achieved by this proposal which also reduces the Council's land maintenance costs and makes more funding available in the long term for parks and open space enhancements.

#### PREVENTION

- 3.2 By disposing of these small parcels of land to an adjoining or local householder, it will have a positive impact on crime and disorder by reducing the opportunities for vandalism and fly-tipping

#### COLLABORATION

- 3.3 By working with colleagues in Property Services and Legal to sell this land it will result in the Council obtaining the best consideration.

#### INTEGRATION

- 3.4 The integration of public land into the community will serve to free up time spent on management of the areas.

#### INVOLVEMENT

- 3.5 Opportunities for members of the public to make better use of surplus land to increase their garden space. The well-being of residents involved will be enhanced as they will obtain enjoyment from the use of this otherwise unused land as a recreational area.

### **4. Climate Change and Nature Implications**

- 4.1 These areas of land will be absorbed into each garden as additional garden space for the residents, and as such would not have a negative impact on climate change or nature. Any advice regarding planning permission for the use of the land as garden will be for the property purchasers to determine and if necessary, action.

## **5. Resources and Legal Considerations**

### **Financial**

- 5.1 The disposal of the land will generate a small receipt for the Neighbourhood and Transport Services Revenue Budget.
- 5.2 The land has previously been evaluated as part of the initial report and therefore there will be no additional cost to the Council re: Land Evaluation. No further evaluation is considered necessary.
- 5.3 As outlined in 2.5 above the cost of the Open Space Notice will, in this instance only, be covered by the Council.

### **Employment**

- 5.4 There will be no impact on employment.

### **Legal (Including Equalities)**

- 5.5 The Council has a statutory and fiduciary duty to obtain best consideration for disposal of land and buildings in its ownership. There are exemptions to this obligation, however the Council are not relying on any such exemptions in this particular case
- 5.6 Legal Services will be instructed in connection with the Council's duties to advertise the disposal of the land edged red shown in the Plan at Appendix A.
- 5.7 Legal Services will be required to draft, complete and execute all documents required to complete the disposal of land.

## **6. Background Papers**

None.

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