

## Highways Committee

7 October 2013



### Loss of open space objections relating to the sale of land adjacent The Todner, Front Street, Dipton

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## Report of Stuart Timmiss, Head of Spatial Policy, Planning, Assets and Environment

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### Purpose of the Report

- 1 To report objections to the loss of open space notice relating to the potential disposal of land for private garden use verged red on the attached plan adjacent The Todner, Front Street, Dipton.

### Background

- 2 Following an encroachment on Council land terms have been agreed with Mr Reg Ord of The Todner, Front Street, Dipton to purchase the land for additional garden land. Attached is a plan showing the subject land verged in red and the immediate surrounding open space verged and hatched blue.
- 3 Planning permission for change of use was approved on 10<sup>th</sup> October 2012 (planning reference: 1/2012/0471) therefore the loss of the open space was acceptable under planning policy.
- 4 In accordance with Section 123 of the Local Government Act 1972 the loss of open space was advertised in the local press for two consecutive weeks. A number of written objections have been received along with a letter of objection from the local member, Councillor Bob Alderson.
- 5 The objections raised are as follows:
  - Loss of an area for amenity use and outlook for residents nearby will be affected – The subject land is in a fairly isolated location enclosed on two sides with boundary fencing for the adjacent gardens. The land is sloped and aerial photographs taken in 2010 (attached for information) show the area was covered in gorse bushes making it impossible for the public to gain enjoyment from physical use. The Neighbourhoods department have confirmed they have no objections to the loss of the area. The planning application for the change of use has been approved and previous disposals of adjacent land by the former Derwentside District Council were acceptable.

- Land fenced without the Council's permission – This is not relevant consideration in respect of the loss of open space objections.
- 6 When objections are received to the loss of open space the Corporate Director of Regeneration and Economic Development is required to obtain the views of Highways Committee before deciding whether to proceed with the removal of open space.

### **Proposal**

- 7 The Assets Service has considered the benefits the land in question had to the public as part of the open space in the locality and note that there are more suitable areas of open space nearby for the public to use and enjoy.
- 8 In the officer's opinion, the land was not of great benefit to the residents of Dipton as an area of useable public open space. In considering the above arguments it is the officer's opinion that this loss of open space is acceptable.
- 9 The Committee is therefore required to express its views on whether the land in question should cease to be classed as open space or not.

### **Recommendation**

- 10 It is **RECOMMENDED** that members agree with officer's recommendations that the loss of open space is acceptable and therefore the sale of land for garden use can proceed.

### **Background papers**

Plan DO-12-329  
Letters of objection  
Aerial Photograph

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## **Appendix 1: Implications**

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**Finance – Disposal of the subject land will result in the Council obtaining a Capital Receipt of £13,500 with associated surveyors fees of £270 and legal fees of £250. There will be a revenue saving in not having to maintain the land.**

**Staffing – Not applicable**

**Risk – None Known**

**Equality and Diversity / Public Sector Equality Duty - Not applicable**

**Accommodation - Not applicable**

**Crime and Disorder - Not applicable**

**Human Rights - Not applicable**

**Consultation – A notice for the loss of public open space was advertised for two consecutive weeks in the local press. The two objection letters received are attached here to.**

**Councillors Bob Alderson and Ivan Jewell have been consulted and both have objected to the loss of open space. Councillor Neil Foster has no conflicts of interest. He supports the views of the local members and objects to the loss of open space.**

**Procurement – Not applicable**

**Disability Issues - Not applicable**

**Legal Implications – The council is obliged to advertise an intention to dispose of land held as open space and take account of any objections received before determining whether to dispose of the land or not. The loss of Public Open Space was advertised as stipulated in Section 123 of the Local Government Act 1972.**

**Should the Council decide that the land remain as open space it may be necessary to take legal action to regain possession of the site if Mr Ord does not vacate it voluntarily.**