

North Tyneside Council

Report to Cabinet

Date: 20 February 2023

Title: Land at Centurion Park, Rheydt Avenue, Wallsend

Portfolio(s):	Deputy Mayor Finance and Resources	Cabinet Member(s):	Councillor Carl Johnson Councillor Martin Rankin
Report from Service Area:	Commissioning and Asset Management		
Responsible Officer:	Mark Longstaff Director of Commissioning and Asset Management	(Tel:(0191) 6438089)	
Wards affected:	Northumberland and Wallsend		

PART 1

1.1 Executive Summary:

This report asks Cabinet to consider representations that have been made to the Authority in relation to a statutory notice confirming the Authority's intention to dispose of an area of land within its freehold ownership at Centurion Park, Rheydt Avenue in Wallsend, ("the Land"), part of which is classed as public open space. The Land is shown by dark outline on the Appendix Plan.

Under section 123 (2A) of the Local Government Act 1972, there is a legal requirement for the Authority to give notice of its intention to dispose of land consisting or forming part of public open space within its boundaries for two consecutive weeks in a local newspaper circulating within the area, and to consider any objections or representations made.

3 representations were made to the Authority in the response to the press notices and Cabinet is asked to consider the main points of objection made in the representations as summarised in Section 1.5 of the report.

1.2 Recommendation(s):

It is recommended that Cabinet determine whether or not to set aside the objections received in relation to the disposal of the Land and, if appropriate, reaffirm authorisation to the disposal of the Land.

1.3 Forward Plan:

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 2 December 2022.

1.4 Council Plan and Policy Framework

This report relates to the following priority in the 2021-2025 Our North Tyneside Plan:

A Secure North Tyneside

We will provide 5000 affordable homes

1.5 Information:

1.5.1 Background

The Land which is shown by dark outline on the Appendix Plan was declared surplus to the Authority's requirements by Cabinet on 24 January 2022. Approval was also given for it to be made available for disposal by private treaty to Bellway Homes Limited, ("Bellway"), for the development of 215 new homes, including 54 affordable homes, in respect of which the Authority's Planning Committee gave a "minded to grant" planning approval to the planning application on 17 January 2023, subject to the completion of a Section 106 Planning Agreement.

As the Land is classed as public open space it is subject to the relevant provisions of the Local Government Act 1972. The Authority must therefore give notice of its intention to dispose of the Land in accordance with Section 123 (2A) of the Act and formally consider any representations made.

This must be done by placing notices confirming the proposed disposal for two consecutive weeks in a local newspaper. The Authority's intentions were advertised in the Journal newspaper on 7 November 2022, and 14 November 2022, respectively. The closing date for the receipt of representations was set as 2 December 2022.

Prior to the closing date, 3 representations were made to the Authority all of which were objections to the proposed disposal. These were from a local resident, The Rt Hon Nick Brown, MP, and Wallsend Boys Club.

1.5.2 Representations Objecting to the Proposed Disposal of the Land

The main points of the objections received are numbered 1 to 10 below together with officer responses at appropriate intervals.

1. **The proposed development will result in an unacceptable increase in traffic in the locality.**

Officer Response

A full Transport Assessment was considered in detail as part of the planning process and officers were satisfied that the proposed development would only have a limited impact on the local highway network.

2. **The proposed development will increase the risk of flooding in the locality.**

Officer Response

A Flood Risk Assessment and Drainage Strategy were considered in detail as part of the planning process and officers were satisfied with the surface water attenuation measures put forward by Bellway to mitigate the risk of flooding.

3. Overdevelopment of the site

Officer Response

The density of the development was considered as part of the planning process. A development of 215 new homes represents a density of 22 dwellings per hectare and was considered to be an acceptable level of development.

4. The development will result in loss of amenity to the Wallsend Boys Club

Officer Response judgement

The amenity of surrounding developments including Wallsend Boys Club and nearby existing residential properties was considered as part of the planning process and the conclusion was that this would not be adversely affected by the proposed development.

It should be noted that the Club already occupies an extensive site that is immediately adjacent to existing residential properties, and that was leased to the Club by the Authority in 2012, as part of the changes to the leisure offer in Wallsend.

5. The space identified in plans for disposal has been part of Wallsend Sports Centre since it was opened in 1972. This land, formerly part of the Bigges Main Colliery, was acquired by, as it was then, Wallsend Borough Council with the intention to develop recreational space for use by the public. It is my understanding that such a process is subject to statutory trust which ensures that the open space is held with a view to allow the enjoyment and use of the public and cannot be used for any other purpose.

Officer Response

Detailed land title checks were carried out by lawyers acting on behalf of the Authority and also Bellway as part of the sale process and no restrictions were identified to prevent the land being disposed of for residential purposes. It was recognised however that any disposal of the land would need to be in accordance with the provisions of section 123(2A) of the Local Government Act 1972 and the decision of Cabinet at a later date.

6. As the land has been open, recreational space since at least 1972, with no restrictions to access by the public, I do not understand how the Council can consider disposing of this land for private housing builders.

Officer Response

As stated, the Authority is complying with the necessary legislative requirements for the disposal of the land in accordance with section 123 (2A) of the Local Government Act 1972. Cabinet must consider the objections and either uphold the objections and not dispose of the land or set aside the objections and progress the disposal of the land.

7. The land is still used by the public, even though, since the Council leased the land to a private operator (on, what I believe was a 99-year lease), the previous football and cricket pitches have fallen into disuse. Runners, walkers, children all use the land for recreational purposes and the loss of this land would have a serious detrimental effect on the quality of life for local residents.

Officer Response

It is accepted that the land has not been closed to the public and it is for this reason that the Authority has undertaken the section 123 (2A) procedure as laid down by the Local Government Act 1972.

Through the planning process, Sport England (the statutory planning consultee in relation to development on land used as playing field) was satisfied that all of the sports facilities that were once in this location have already been re-provided elsewhere.

Alternative recreation land is available in the locality at Richardson Dees Park which includes outdoor gym facilities, Wallsend Hall Grounds and Wallsend Dene. Furthermore 2.3 hectares (ha) of public open space is to be provided as part of the redevelopment scheme in addition to 1 hectare provided off site in Wideopen.

Overall, there has been a significant investment in sports and leisure facilities in the Wallsend area over the last 20 years that has seen additional and improved amenity provision for the local community.

8. The proposed development of housing on the open space is contrary to the Council's Local Development Plan Policy DM5.2 (c)

Officer Response

The Open Space Assessment considered as part of the planning process provides information to demonstrate that the criteria set out within Policy DM5.2 can be met. The detailed consideration of the Authority's Development Plan and the policies referred to therein were considered by the Planning Committee on 17 January 2023.

9. The application is also contrary to the following policies:

Policy S1.2 – Spatial Strategy for Health and Wellbeing in that it conflicts with part b, ii, iii, and v – given the substantial and direct conflict with the operation and restriction the development will give rise to in relation to Wallsend Boys Club.

Policy S1.4 – General Development Principles in that the development does not accord with the principles of sustainable development, as it conflicts with the amenity and enjoyment of adjoining premises and land uses, and that it inhibits the continued need and demand for additional infrastructure associated with community sports facilities.

Officer Response

There was no evidence to indicate that the construction of additional houses in close proximity to the Boys Club, which already shares a boundary with established residential streets, would conflict with the operation of the Club.

The application of the Policies referred to above in relation to the land in question would have been a matter for the Planning Committee and planning officers as part of the planning process.

In respect of community sports and leisure infrastructure, the Authority has made a significant investment in the Wallsend area including over £10 million in Hadrian Leisure Centre and £5.046 million in the Wallsend Parks Regeneration project.

10. Policy S5.1 – Strategic Green Infrastructure – Wallsend Boys Club have repeatedly provided evidence to the council of deficiencies in the provision of community sports facilities in this locality, to meet an increasing and growing need and demand, and such the development will inhibit targeted improvements in this locality.

Officer Response

Whilst this Policy will have been taken into consideration as part of the planning application process there is clear evidence of the investment in community sports and leisure provision within the Wallsend area as noted in the response to objection point 9 above, and as detailed in the information provided in Section 1.5.3, below.

1.5.3 Additional Officer Comments on the Provision of Sports and Leisure Facilities in Wallsend

As part of a strategic review of sport and leisure facilities in the Wallsend area a significant amount of public consultation was undertaken by the Authority prior to the closure and lease of existing facilities to Keeping Inns limited and Wallsend Boys Club.

At that time there was a recognised need to replace ageing sport and leisure facilities. This ultimately led to the opening of Hadrian Leisure centre with over £10 million investment in new facilities. This included a state-of-the-art gym, new swimming pools and public access to a new all-weather pitch, multi-use games areas, sports hall, dance studio and a regionally significant climbing wall.

In addition, a new grass football pitch and cricket pitch was provided at Churchill College. The quality and quantity of new facilities available for public use far exceed those closed and subsequently leased out for other use. The new facilities were also built in parts of Wallsend that were much more accessible for the local community.

Since that time, the Authority has also supported both Wallsend Boys Club and Wallsend Rugby Club to establish new, quality, facilities in the Wallsend area. Prior to this both clubs did not have a base for match play in North Tyneside.

As part of the disposal of existing facilities at Bigges Main, the Authority leased the existing site of Wallsend Boys Club on a long-term basis for a term of 80 years from 2012. This has enabled the Club, with the Authority's support, to develop the excellent facilities they now have on site including a new artificial grass pitch and new grass pitches as well as changing facilities and car parking.

In addition, land east of St Peters playing fields was leased to Wallsend Rugby Club and support was given to the club to establish two new full size Rugby pitches and a new base for the club was established.

At the present time, the Authority is also at an advanced stage to provide a new Sports Hub at St Peters playing fields which would include another new artificial grass pitch as well as changing and other community facilities.

Finally, as part of the upgrade of Richardson Dees Park, new and refurbished recreational facilities were provided. This includes tennis courts, bowling facilities, a multi-use games area, an outdoor gym, a skate park and a large children's play site.

Following a strategic review of leisure facilities in Wallsend and across the Borough, significant investment was made in sports, leisure and park facilities for the community..

1.5.4 Conclusion

Cabinet is asked to consider all of the points of objection and the officer responses given in Sections 1.5.2 in respect of the proposed disposal of the Land at Centurion Park.

1.6 Decision options:

Following consideration of the objections Cabinet may decide:

- i) to set aside the objections received in relation to the proposed disposal of the Land at Centurion Park and authorise the disposal of the Land to proceed; or
- ii) to uphold the objections received in relation to the proposed disposal of the Land at Centurion Park in which case the disposal cannot proceed.

1.7 Reasons for recommended option:

There is no recommended option.

1.8 Appendices:

Appendix 1 – Land at Centurion Park, Wallsend Boundary Plan

1.9 Contact officers:

Niall Cathie – Strategic Property Manager – Tel. 0191 643 6517
David Mason – Senior Manager Capital strategy and Planning

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) Advertisements in the Journal Newspaper (7 & 14 November 2022)
- (2) Objections Received
- (3) The Authority's land ownership records
- (4) [The planning report that was considered by the Planning Committee on 17 January 2023](#) and supplemental report

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

In the event that the disposal of the Land does not proceed, any potential General Fund capital receipt arising from the proposed disposal would be lost.

2.2 Legal

Under section 123(2A) of the Local Government Act 1972, the Authority may not dispose of any land consisting or forming part of open space without having first advertised the proposed disposal for two consecutive weeks in a local newspaper circulating within the area of the land, and having then considered any objections or representations made to that disposal.

This requirement is a means by which local public opinion regarding such proposals can be obtained. Cabinet is required to consider the objections made and to decide whether or not to proceed with the disposal of the land.

Members are advised that legal representatives of Wallsend Boys Club have written to the Authority indicating that they may seek judicial review of the grant of planning permission for the proposed residential development on this site.

The legal process for disposal by the Authority of open space pursuant to section 123(2A) is distinct from the grant of planning permission pursuant to the Town and Country Planning Act 1990 and associated legislation by the Local Planning Authority. Whilst the loss of open space is a relevant consideration under both regimes, Cabinet is asked in this report to consider the objections received against the disposal of open space pursuant to the advertisements placed under section 123(2A) as outlined above.

Where the same or similar objections have been made under both regimes, Cabinet must consider those objections independently on their own merits as objections under the section 123(2A) process, but may have regard to the officer responses, which may include information provided to planning committee in relation to the same or similar objections.

Cabinet will note that matters of planning policy referred to in the objections were considered by the planning committee in January 2023, who were minded to grant planning permission for the proposed development of this land. Cabinet is not, in any way, bound or fettered by the decision reached by the planning committee. Cabinet may also have regard to other relevant factors when considering objections to the open space disposal, which may not have been material considerations for the purpose of the planning application.

The Authority has followed the statutory process for disposal of open space in this matter, and the objections received are open to consideration by Cabinet.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The Strategic Property Group confirmed its support for the sale of the Land on 2 November 2021.

2.3.2 External Consultation/Engagement

The Northumberland and Wallsend Ward Members were offered a briefing on the proposed sale of the Land on 14 December 2021.

External consultation has been conducted in relation to the decision required of this report in accordance with the statutory requirements of section 123 of the Local Government Act 1972. This has been through the placement of notices in the local press confirming the Authority's intention to dispose of public open space at Centurion Park.

External consultation took place as part of the planning process for the planning application for the Land.

Extensive public consultation and engagement was undertaken to support the move of sports and leisure facilities to the new Hadrian Leisure Centre and to support the redevelopment of Richardson Dees Park, The Arboretum and Wallsend Hall Grounds.

2.4 Human rights

There are no human rights implications directly arising from this report.

2.5 Equalities and diversity

Bellway will have due regard to the Equality Act 2010 in relation to the proposed development and sale of new homes at Centurion Park.

Should the disposal of the Land proceed, the Authority will also have due regard to the Equality Act 2010 in relation to any project that the Authority may wish to promote through the use of Section 106 planning contributions linked to the development of the Land for residential purposes or through the use of capital receipts linked to the proposed sale of the Land.

2.6 Risk management

There is a risk of a claim for judicial review arising from the disposal and/or grant of planning permission in relation to this land.

2.7 Crime and disorder

Crime and disorder issues were considered as part of the planning process for any proposed development of the Land at Centurion Park.

2.8 Environment and sustainability

Environment and sustainability issues were considered as part of the planning process for any proposed development of the Land at Centurion Park to ensure the development is aligned with the Authority's targets set out in its Net-Zero 2030 Action Plan.

PART 3 - SIGN OFF

- Chief Executive
- Director(s) of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Assistant Chief Executive