

**REPORT FROM: DEMOCRATIC AND LEGAL MANAGER**

**TO: COLNE AND DISTRICT COMMITTEE**

**DATE: 9th JULY, 2015**

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## **LAND AT WOOD STREET/LENCHES ROAD, COLNE**

### **PURPOSE OF REPORT**

To ask for approval for a recommendation to Executive that an application be made to Lancashire County Council to register this land as a town or village green.

### **RECOMMENDATION**

That Executive be recommended to agree that a voluntary application by this Council as landowner be made to Lancashire County Council to register the land shown hatched black on the plan attached to this Report as a town or village green.

### **REASON FOR RECOMMENDATIONS**

So that the land can continue to be used for recreational purposes by the residents of Wood Street, Colne and others.

### **BACKGROUND**

1. Councillors will recall that this land was discussed at the meeting of this Committee on 12<sup>th</sup> March this year. The land (shown hatched black on the plan attached to this Report) and measuring 1282 square metres is the site of the former Providence Chapel. It was acquired by the former Colne Corporation in 1972, when it was exchanged with the Trustees of the Chapel for a building in Albert Road. Also shown on the plan attached to this Report is an adjoining area of land marked A, which is allocated for housing. Discussions have taken place regarding the development of that land.
2. The chapel has now been demolished and the land is an open grassed area and maintained by the Parks and Recreation Section. This takes the form of grass cutting, a weed kill and strimming. It should also be noted that the land is included in the Strategic Housing Land Availability Assessment (SHLAA) as a potential area for development after the initial 5 year period.

3. Residents of Wood Street have approached the Council and have pointed out that the land is used by them for walking pets, having picnics and growing wild flowers. They would like to retain the land in its current condition for use for recreation by the residents.
4. At the meeting on 12<sup>th</sup> March, the following resolution was passed:  

“That this Committee recommends that the Executive declare the land at Wood Street/Lenches Road, Colne, shown on the plan attached to this report, surplus to requirements and also recommends the Executive to continue discussions with the residents to find a way forward.”
5. The Executive confirmed that resolution at its meeting on 19<sup>th</sup> March this year.

## ISSUES

6. The original proposal was that a Community Land Trust be formed in respect of the land. However, after further research into this and discussions with the residents and it was clear that the formation of such a trust, with the financial and administrative burdens which that would involve, was not something which the residents would want, and would not necessarily achieve the preservation of the land in its current condition.
7. It was then proposed that an application be made to the Lancashire County Council to register the land as a town or village green. As the Council owns the land, it can make such an application voluntarily under Section 15(8) of the Commons Act 2006.
8. If an application to register a piece of land as a town or village green is made by someone other than the landowner, then evidence is required that the land has been used as of right for a period of 20 years or more for lawful sports or pastimes. Where the application is made by the landowner, though, it isn't necessary for such evidence to be provided.
9. The effect of land being registered as town or village green is that it is protected under the following legislation:
  - a. Section 12 of the Inclosure Act 1857 against injury or damage and interruption to their use or enjoyment as a place for exercise and recreation. It is a criminal offence to cause injury or damage to village greens.
  - b. Section 29 of the Commons Act 1876 makes encroachment on, or inclosure of, a green, and interference with or occupation of the land, illegal unless it is with the aim of improving the enjoyment of the green.
10. This would appear to provide the protection for the land which the residents are seeking. It is therefore recommended that the Executive be asked to approve the making of a voluntary application to the County Council under Section 15(8) of the Commons Act 2006 to register the land as a town or village green.
11. As stated above, the land is currently included in the SHLAA as a site for potential development. The issue of its future inclusion in that document will need to be addressed separately.

## IMPLICATIONS

**Policy:** None arising directly from the Report

**Financial:** The land in question is currently included in the SHLAA as a site for potential development. However, if the request to register the land as a town or village green is agreed then

this designation will remain in perpetuity and the Council will forego the potential benefit of any future development.

Generally, Local Authorities are under an obligation to dispose of land for the best consideration possible (as per s123 of the Local Government Act 1972). However, there is an exception to this which permits a local authority to dispose of land/property at less than the best consideration (i.e. at an undervalue) where doing so will help secure the promotion or improvement in the economic, social or environmental wellbeing of its areas, subject to any undervalue not exceeding £2m.

The opinion of Liberata Property Services as to the open market value of this land would be reported at the Executive meeting.

**Legal:** These are set out in the body of the Report.

**Risk Management:** None arising directly from the Report.

**Health and Safety:** None arising directly from the Report.

**Sustainability:** None arising directly from the Report.

**Community Safety:** None arising directly from the Report.

**Equality and Diversity:** None arising directly from the Report.

## **APPENDICES**

None

## **LIST OF BACKGROUND PAPERS**

None