

**REPORT FROM: THE HOUSING, HEALTH AND ENGINEERING SERVICES
MANAGER**

TO: NELSON, BRIERFIELD AND REEDLEY COMMITTEE

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**DISPOSAL OF LAND OFF HELMN WAY / MARSDEN HALL ROAD SOUTH,
NELSON**

PURPOSE OF REPORT

To seek approval from Members to make a recommendation to the Policy and Resources Committee to declare the above land surplus to requirements for disposal by way of private treaty.

RECOMMENDATION:

That Members recommend to the Policy and Resources Committee that the land be declared surplus to requirements, and that it approves a sale to the owners of the adjacent land to provide an access from the highway, on the terms set out below.

REASON FOR RECOMMENDATION:

To achieve a capital receipt and to remove any future liability for maintenance.

BACKGROUND

1. The subject land, measuring approximately 22m x 2.35m, as edged black on the attached plan shown as Plot A, is owned by the Borough Council and is the highway verge/remainder strip between the highway, being constructed as an extension to Helmn Way/Marsden Hall Road South, and land privately owned by a local family who acquired it in December 2021 to construct 6 x new houses for their own family use after completion, marked as Plot B.
2. The family acquired the land at auction and were under the impression that they had also acquired rights of access to the land, which was not the case. Planning Consent to develop the land was granted by the Borough Council in September 2022, subject to conditions.

3. The land is of no operational or beneficial use to the Council and is currently a maintenance liability. It would not be of interest to any other party and could not physically be used for anything other than as a landscaped strip.
4. The purchaser wishes to acquire the verge/remainder land and the consideration level below is in excess of the current value land as a verge/remainder strip and follows the principle established in the “ransom” case Stokes V Cambridge, being based upon a reasonable share of the uplift in value attributable to the benefit obtained from the access strip.
5. The land might be considered to form Open Space and its loss may be required to be advertised as per procedure inviting comment, however it is not expected to generate any objections. Consent may also be required in relation to a potential restrictive covenant affecting the Council’s Title, in favour of Homes England, which would have to be addressed before the strip of land could be sold.
6. As the disposal of the land is only of real interest to the purchaser, Members are recommended to agree a disposal by way of private treaty subject to the following terms and conditions:
 - i. Area: 50.5 square meters approximately.
 - ii. Consideration: £40,000 (plus VAT if applicable)
 - iii. Use: vehicular and pedestrian access
 - iv. Boundary treatment: the purchaser to construct a wall or fence to the Council’s satisfaction to enclose the land at its own cost.
 - v. Costs: the purchaser to bear the Council’s legal costs and Open Space advertising costs.

IMPLICATIONS

Policy: The Council seeks to identify surplus land property for inclusion within its disposal programme in order to receive capital receipts and to relieve the Council of any liability for costly maintenance.

Financial: Consideration of £40,000 would be received by the Council, in excess of the current value of the land as verge/landscaping strip.

Legal: The issue of the restriction on disposal would have to be addressed and the loss of Open Space be advertised to invite comment or objection...

Risk Management: No implications are considered to arise directly from this report.

Health and Safety: No implications are considered to arise directly from this report.

Climate Change: No implications are considered to arise directly from this report

Community Safety: See risk management comments.

Equality and Diversity: No implications are considered to arise directly from this report

APPENDICES

Location plan

LIST OF BACKGROUND PAPERS

None