

**REPORT FROM:** DIRECTOR OF PLACE

**TO:** NELSON, BRIERFIELD AND REEDLEY COMMITTEE

**DATE:** 2<sup>nd</sup> OCTOBER 2023

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## **LAND ADJOINING HURSTWOOD GARDENS, BRIERFIELD**

### **PURPOSE OF REPORT**

To recommend that the land shown edged black on the plan be declared surplus to requirements further to a request to purchase from an adjoining owner.

### **RECOMMENDATION**

That the Executive declare the land surplus to requirements in order for it to be sold, and that the Director of Place be authorised to negotiate terms of a long leasehold sale to the existing tenant with a restrictive covenant that it only be used as a domestic garden for 7 Hurstwood Gardens.

### **REASON FOR RECOMMENDATION**

A sale of the land would result in a capital receipt for the Council and would reduce its maintenance liabilities.

### **BACKGROUND**

1. The land is maintained by the Council's Operational Services and is a grassed area of land next to a tarmaced footpath. It is part of a larger area of land shown shaded grey on the plan which was transferred to the Council in 2000 in relation to the development of Hurstwood Gardens with it to be retained as Open Space, but in the transfer there was no specific covenant restricting it to this use.
2. A request has been submitted by the owner occupier of 7 Hurstwood Gardens to purchase the land to extend the garden. Most of the land adjoins the boundary of the property, but part of it adjoins the boundaries of 9 Hurstwood Gardens and 7 Bowland View and the owners have been written to asking if they are interested in purchasing the sections adjoining their properties, but neither have responded.

## ISSUES

3. The Councils Operational Services have confirmed that the land is difficult to maintain due to it mostly being a sloping narrow strip next to a tarmaced footpath, and that a sale of the land would not affect the remaining Public Open Space. A sale would result in a reduced maintenance liability for the Council.
4. As the land is designated Open Space there is a legal requirement for the Council to advertise the proposal for two consecutive weeks in the local press. This allows the Public an opportunity to object to the disposal, and any objections are to be reported back to the Executive where Members can consider whether to accept or reject such objections. In addition the proposal will require Planning Permission for change of use.
5. A sale of the land would result in a capital receipt for the Council and it would not be expected to achieve an amount in excess of £4,000. It is recommended that the land be sold on a long leasehold rather than a freehold so that covenants in relation to use of the land would be easier to enforce if they were breached.

## IMPLICATIONS

**Policy:** The Council seeks to identify surplus property for inclusion in its disposal programme in order to achieve capital receipts. It is proposed that a long leasehold sale of the land be negotiated to the owner of 7 Hurstwood Gardens with a restrictive covenant that the land be used for domestic garden use for the property.

**Financial:** A capital receipt for the Council and an end to all liabilities.

**Legal:** No legal implications are considered to arise directly from this report.

**Risk Management:** On disposal of the property all risks and liabilities will cease for the Council.

**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.

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

## APPENDICES

Appendix 1 - Location Plan

**LIST OF BACKGROUND PAPERS:** None.