
SMITHFIELD ROAD/BARTON STREET LAND EXCHANGE

**Responsible Cabinet Member(s) - Councillor Don Bristow,
Resource Management Portfolio**

Responsible Director(s) - John Buxton, Director of Development and Environment

Purpose of Report

1. To seek authority to exchange two parcels of land at Smithfield Road and Barton Street respectively.

Information and Analysis

Background

Smithfield Road

2. Lexington Payne Homes Limited own a piece of land adjacent to Smithfield Road extending to 720 sq m or thereabouts and shown hatched on the **attached plan** No. 1. This land was left as open space on completion of Lexington Payne's Gainsborough Court development and was intended to be handed over to the Council for adoption. Whilst the adoption was never formally progressed, the Council have been cutting the grass and maintaining the land.
3. The land is subject to a right of access in favour of the Council to access the Smithfield Road allotment site and is currently used by allotment holders both for access and to park their cars, although this is now resulting in the land becoming puddled and untidy.
4. In without prejudice discussions with Lexington Payne it is proposed that the land be acquired for £1.00 to allow a parking area to be created for allotment holders.

Barton Street

5. In 1990, Durham County Council acquired a strip of land extending to 51 sq m, (shown hatched on **attached plan** No. 2) from Winnie Properties Limited, then owners of the former St Williams Roman Catholic School, in order to create a footpath along Barton Street in conjunction with a larger highway improvement scheme in the area. The footpath was constructed in the 1990's but the Land Registry are adamant that the land forms part of Lexington Payne's housing development on the former school site and is inside their boundary wall.

6. It is not entirely clear whether the footpath was actually built on the land in question when the highway improvement works were carried out, or whether plans have been drawn incorrectly, but in either event it is proposed that the land be transferred to Lexington Payne Homes Limited for a nominal consideration of £1.00 in order to regularise the situation.

Highways Comment

7. The Highways Manager has confirmed that the adopted footpath at Barton Street is in the correct position in relation to the former St Williams Roman Catholic School and that the Section 38 Agreement with Lexington Payne Homes Limited shows that the back edge of the footpath is the limit of their ownership. Accordingly if we do technically own any land within Lexington Payne's boundary then it may be disposed of without prejudicing the adopted highway.

Valuation Comment

8. It is considered that an agreement to exchange land with Lexington Payne Homes Limited at a nominal £1.00 for each piece of land represents the best consideration that can reasonably be obtained in line with the provisions of Section 123 of the Local Government Act 1972.

Outcome of Consultation

9. Internal consultations have not raised any objections to the proposal contained in this report.

Asset Management

10. There are no strategic reasons why the land in question cannot be exchanged.

Legal Implications

11. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

12. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Council Policy Framework

13. The issues contained within this report do not represent change to Council policy or the Council's policy framework.

Decision Deadline

14. For the purpose of the 'call-in' procedure this does not represent an urgent matter.

Recommendation

15. It is recommended that :-

- (a) The acquisition of land at Smithfield Road be approved on the terms outlined in the report.
- (b) The disposal of land at Barton Street be approved on the terms outlined in the report.
- (c) The Borough Solicitor be authorised to complete the necessary documentation.

Reasons

16. The recommendations are supported by the following reasons :-

- (a) To allow a parking area to be created for Smithfield Road allotment users.
- (b) To comply with a request from Lexington Payne Homes Limited.
- (c) To regularise existing situations on the ground.

John Buxton
Director of Development and Environment

Background Papers

Estates' Files

RTA : Extension 2737
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