
DESIGNATION OF LAND AT MONTEFIORE AVENUE

To: **Cabinet 21st - January 2014**

Main Portfolio Area: **Financial Services**

By: **Mark Seed, Director of Operational Services**

Classification: **Unrestricted**

Ward: Moses Montefiore Ward

Summary: To consider the designation of a section of land off Montefiore Avenue as a village green.

For Decision

1.0 Introduction and Background

- 1.1 A section of land known as the “ex Putting Green” located off Montefiore Avenue (plan in Annex 1) has been the subject of discussion regarding the council’s long term intentions for the land.
- 1.2 It is known that the land had been identified some years ago as having potential for residential development and it was put on the capital disposal list. However, due to local opposition to these plans on 12th January 2011 Cabinet agreed to remove the land from the disposal list.

2.0 The Current Situation

- 2.1 The land is currently used as a public open space for recreational purposes. The use of the land supports priority 11 of the Corporate Plan with an objective to “protect and preserve our public open spaces”.
- 2.2 Priority 7 in the Corporate Plan sets out an aim to “plan for the right type and number of homes in the right place to create sustainable communities in the future”. This is being developed further as part of the drafting of Thanet’s Local Plan.
- 2.3 Consultation with the Planning Department indicates that currently the land is not identified as being required to support the housing demand in this area, and that there are other opportunities within the ward and across Thanet for housing provision. However, the Local Plan is still in its draft stage and is subject to a formal adoption process.
- 2.4 It is known that Kent County Council own the land adjacent to this site (shown in Annex 1). It is understood that KCC are actively pursuing options to change the use of their land for housing purposes.
- 2.5 As a landowner Thanet District Council recognises that the land may have some potential for a change of use to provide housing, subject to legal processes, and this would provide a capital receipt.

- 2.7 Under the Local Government Act 1972, section 123 (1) indicates that, subject to other provisions of this section, a local authority may dispose of land held by it in any way it wishes, but there is no obligation on the Council to dispose of its land if it does not wish to do so (R – v- Bolsover District Council ex parte Pepper 2000).
- 2.8 If there is a decision to dispose of public open spaces (or other land used by the public) there is a formal process of consultation which must be adhered to, both regulated by law and also by Thanet District Council's own disposal process.
- 2.9 Ward councillors have informed the council that there has been, and still is, significant opposition towards any plans to change the use of the site to housing land. The local councillors would like to provide certainty to the park users that the land will remain available for public use by registering the land as a village green.

3.0 Options

- 3.1 The first option is to carry on with the current situation with the land continuing in use as open space and not available for disposal given that it supports the Council's priority 11.
- 3.2 Secondly to continue with the current use but in conjunction with this to carry out an assessment for the need for this particular open space. This would entail using council resources to determine the need, which is extremely difficult to quantify.
- 3.3 The third option is to determine whether the council should look at the opportunity, through the consultation process, to change the use of the land for the purposes of housing, in conjunction with KCC. Again this will take officer resources to develop, and would be subject to significant objections.
- 3.4 The final option is to agree that the area is needed for recreational purposes and to undertake the process (see legal comments below) to allow an application to go forward to KCC for the registration of the land as a village green.

4.0 Next Steps

- 4.1 As the above options involve a choice that would rule out future sale of the site for development purposes, members are asked to consider the above options and decide in principle, on a way forward for the council.

5.0 Corporate Implications

5.1 Financial and VAT

- 5.1.1 Finance confirm there are no immediate financial implications as there is no budget based on a capital receipt for this site, and as this is an options paper there are no VAT implications that give cause for concern.

5.2 Legal

- 5.2.1 It is important to ensure that any decision on land disposal does not set a precedent in respect of open spaces owned by Thanet District Council. A local authority must ensure that it complies with usual and commercial best practice when determining whether or not:

- * To dispose of land for less than best consideration reasonably obtainable.
- * Any specific proposal to take such action falls within the terms of the Consent

In particular, a local authority should ensure that it complies with any other procedural requirements that may be necessary to dispose of a particular area of land. For

example, on a disposal of open space a local authority is required to advertise its intention in a local newspaper for two consecutive weeks and to consider objections (sections 123(2A) and 127(3), LGA 1972 and section 233(4), *Town and Country Planning Act 1990*).

5.3 Corporate

5.3.1 The option set out in 3.1.3 could contribute to priority 7, planning for homes in the area. However, the local plan has identified sufficient sites elsewhere in the area to satisfy the demand.

5.3.2 The option set out in 3.1.4 would contribute to priority 11, to protect and preserve our public open spaces.

5.4 Equity and Equalities

5.4.1 None of the options has any equalities impacts.

6.0 Recommendation

6.1 It is recommended that Cabinet considers the above options in Section 3 and decides on a way forward for the council.

7.0 Decision Making Process

7.1 This is decision within the policy and budgetary framework that can be made by Cabinet.

Contact Officer:	Edwina Crowley, Property Manager
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Annex List

Annex 1	Plan showing ex putting green and KCC land
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Corporate Consultation Undertaken

Finance	Nicola Walker, Finance Manager
Legal	Steve Boyle, Interim Legal Services Manager