

# REPORT TO EXECUTIVE

# PORTFOLIO AREA: FINANCE & RESOURCES / INFRASTRUCTURE, ENVIRONMENT & TRANSPORT / COMMUNITY ACTIVITIES

Date of Meeting: 28 October 2002		
Public		
Key Decision: No	Recorded in Forward Plan:	Vo
Inside Policy Framework Ves		

Title: PROPOSED SALE OF SURPLUS LAND AT WIGTON ROAD /

WESTRIGG ROAD

PUBLIC PETITION AGAINST PROPOSAL

Report of: DIRECTOR OF ENVIRONMENT & DEVELOPMENT

Report reference: EN 122/02

#### Summary:

A potential sale of a small parcel of land for housing development at Morton has attracted a public petition against the proposal. This report provides background information in order for Members to make a decision.

#### Recommendations: It is recommended that:

 Members' consider this report and give instructions as to how they wish Officers to proceed.

Contact Officer:

David Atkinson

Ext: 7420

#### INTRODUCTION

- 1.1 A small parcel of land identified as surplus to requirements by the Council is being marketed for sale for residential development purposes.
- 1.2 A public petition has been received indicating local resistance to this, because the site is, according to the petitioners, used as an informal recreation space.
- 1.3 This report provides background information for Members to make a decision.

#### DESCRIPTION

- 2.1 The land 0.72 hectares is a flat site laid out to grass. It is shown on the attached plan as phase 2.
- 2.2 It is bounded to the west by a hedge, to the east by Ellesmere Way houses and to the north west by a bund and then the A595 trunk road between Carlisle and West Cumbria. To the north is a residential development known as Westwood constructed in 1994 by Two Castles Housing Association.
- 2.3 Access to the site is gained by Westwood. This road includes a spur into phase 2.
- 2.4 Photographs also show the site.

#### PLANNING POLICY & HISTORY

- 3.1 The land is zoned for residential use within the Carlisle Local Plan.
- 3.2 The whole site obtained planning permission on 7 February 1992 for residential development for 48 dwellings (application number 91/1050) for phases 1 and 2.
- 3.3 The planning permission is attached to this report.

#### 4. DEVELOPMENT & MARKETING

- 4.1 Following the approval of planning permission in 1992, Two Castles Housing Association developed the first phase of 18 units.
- 4.2 The City Council agreed to sell both phase 1 and phase 2 to the Housing Association in 1992 (minute reference PF.96/92) – but this was subject to appropriate financial allocation from the Housing Corporation.
- 4.3 Only phase 1 of the development was ever completed.
- 4.4 After a property review covering all land in its ownership, the Council agreed to declare the site surplus to its requirements with a view to it being marketed for sale openly at the Executive on 27 May 2002 (report EN 060/02).
- 4.5 The land has been marketed openly for sale and has attracted considerable interest from developers.
- 4.6 Subject to the Executive approving final terms, the capital receipt offered for the site by a local developer is substantial.

4.7 The developer may have to obtain an alteration to the planning permission if a new layout is proposed but would not need to apply again for consent if the existing layout was built.

#### CONSIDERATION OF THE ISSUE OF OPEN SPACE

- 5.1 Clearly, by virtue of a public petition, local residents consider the site to be a playing field, used as such over a period of time.
- 5.2 Officers, by virtue of the Planning Approval obtained in 1992, have considered the site to be allocated for the purposes of residential development.
- 5.3 Indeed, the land would have been developed for housing by Two Castles by now if it were not for the fact that there was no Government money to build phase 2 of the scheme.
- 5.4 Open space is defined by the 1990 Town and Country Planning Act (Section 336) as:
  - "Any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground".
- 5.5 If land is deemed to constitute open space and the Council wish to dispose of it then there are legislative provisions requiring the Authority to publish notice of their intention, and to consider representations, before deciding whether to dispose.
- 5.6 Members are advised to take representations from the residents who clearly perceive there to be a need in the area for an allocation to be made for a playing field for use by local residents.
- 5.7 There is open space in the area at Ellesmere Way and Westrigg Road, as shown on the attached plan.

#### 6. CONCLUSIONS

- 6.1 The site was declared surplus by the Council in May 2002 and has been marketed openly for sale for residential purposes on the basis that the Council granted planning permission for such a use 10 years previously.
- 6.2 Members are asked to decide, after representations from the local public, whether to proceed with the sale or not.

#### CONSULTATION

7.1 Mr Simpson, the main addressee of the public petition has been forwarded a copy of the report.

#### STAFFING / RESOURCES COMMENTS

7.2 N/A

#### 8. CITY TREASURER'S COMMENTS

8.1 The Council would not receive a capital receipt if it did not proceed with the sale and would incur maintenance costs if it retained the site for recreation.

#### LEGAL COMMENTS

- 9.1 The petition asserts that the land in question has been used by the public for recreational purposes. The question is whether this land should therefore be treated as "open space" within the meaning of the relevant legislation and, if it is so treated, what consequences flow from that.
- 9.2 As mentioned earlier in the report, "open space" includes any land which is used for the purposes of public recreation. It is a question of fact and degree as to whether, in respect of any piece of land, a sufficient degree of use for public recreation over a period could be established such as to conclude that it should be treated as open space. A judgement would need to be made taking into account such matters as the degree of use and the length of time during which it has subsisted.
- 9.3 If the judgement was that, on the facts, the land should be regarded as open space then certain legislative provisions would apply governing its disposal. Under Section 123 of the Local Government Act 1972 the Council would be required to advertise the proposed disposal in the local press for two consecutive weeks and consider any objections received before deciding how to proceed.

#### CORPORATE COMMENTS

10.1 Included.

#### 11. RISK MANAGEMENT ASSESSMENT

11.1 None.

#### EQUALITY ISSUES

12.1 None required.

#### ENVIRONMENTAL IMPLICATIONS

- 13.1 If development takes place, grass will be built on.
- 13.2 The developer will be required to landscape according to the planning permission.
- 13.3 There have been public complaints in the past about the state of the grass being too high.

#### CRIME AND DISORDER IMPLICATIONS

14.1 None required.

### 15. RECOMMENDATIONS

15.1 Members' consider this report and give instructions as to how they wish Officers to proceed.

## 16. REASONS FOR RECOMMENDATIONS

16.1 After considering a petition, to make a decision about the sale of land.

MRTMRS A SIMPSON
36 ELLESMERE WAY
MORTON PARK
CARLISLE

CHIEF EXECUTIVE'S DEPT S 34536

11 GCT 2002

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Dear Sur or Madring LOG due to a phone

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Call we recipied this Horning we were advised we had to send a copy of this Petition to you, this is only a Small no of People who are willing to sign our Petition we were hold it only takes 30 People to stant a Petition off.

Yours fallfully
ANTHONY SIMPSON

# Keep Our Playing feild

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# HOUSE OF COMMONS LONDON SW1A 0AA

Mr P Stybelski Chief Executive Carlisle City Council Civic Centre Carlisle CA3 8QG Œ

15 October 2002

Dear Peter

I enclose correspondence from constituents from Ellesmere Way strongly objecting to the proposed sale of Council owned land in the adjacent area.

This land has been used for recreational purposes for local children since the houses were constructed and is an important amenity.

I too, share their concerns and would be grateful if you could ensure that my opposition to this sale is made known to the Leader of the Council.

The only reason for this sale appears to be financial and one can only assume that it is due to the financial inadequacies of the Conservative councillors. I am also aware that there are numerous other parcels of land up for sale and I would be grateful if you could provide me with a full list and a map.

I look forward to hearing from you.

Yours sincerely

ERIC MARTLEW MP

Member of Parliament for Carlisle

3 Chatsworth Square, Carlisle, CA1 1HB Tel: 01228 511395 Fax: 01228 819798 C• p© ©α≡p

MORTON PARK, CARLISLE, CA2 6LZ CUMBRIA, ENGLAND. Home Phone 01228-534536

09 October 2002

Eric Martlew, 3, Chatworth Sq, Carlisle.

Dear Mr Martlew,

Why we think the field behind Ellesmere Way should stay the SAME.

The community of Morton feel that the Common Land field behind Ellesmere Way should be left for our children to play save and away from traffic. There is nowhere else for then to play, except for on the front where there is traffic.

We as Parents feel that this can be dangerous as our children could get knocked down as they are between the ages of 2 and 16. A lot of children come every weekend to visit their Grandparents in the street and they also use the field to play, there is also a bus route along Ellesmere Way so the children would bee in danger if they play on the street. The children are also very sporty and we get told to try and get our children outside to play rather than sitting in watching TV so they use the field to play football and to run about and lots of other things they can not do this on the road, as this would be very annoying to the people living round and about, we have a lot of Pensioners in our area and they do not want to listen to children kicking footballs around.

We owe it to our children to give them the freedom to play safe and comfortable which they have done for many years round here, the older peoples children played here now there Grandchildren are playing in the field now. The children do not harm nor do they damage anything, the children are not annoying anyone. What we do need is more space for our children e.g. more PARKS not housing.

We can not let our children wander off and play elsewhere as they are not safe to do this, there is already groups of young children hanging around the shops at Morton we do not want our children to do this as the older people are already terrified. Our children are safe playing on this Common Land which they have played for years as there is always one of the Parent can watch them.

I have lived on Ellesmere Way all my life I only moved when I got married but always looked for a house on this street and as soon as one came up for sale we bought it so our son could play safe on the Common Land that wee did for years. The Ellesmere Way Golden Jubilee Party was held on this Common Land because this Land has always been recognized as community Land since Ellesmere Way houses where built some 37 years ago, the Council have always maintained the land for this use

Please we ask you as a community to leave this Land as it as always been for our children's sake and for our peace of mind. Our children are too precious to let anything happen to them we want to keep them safe (do you)

PLEASE HELP US.

Yours sincerely,

X Wright.

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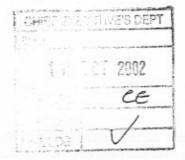
36, ELLESNERE WAY

MORTON PARK, CARLISLE, CA2 6LZ CUMBRIA, ENGLAND. Home Phone 01228-534536

09 October 2002

Chief Executive, Peter Stybelski, Civic Center, Carlisle.

Dear Peter Stybelski,



Why we think the field behind Ellesmere Way should stay the SAME.

The community of Morton feel that the Common Land field behind Ellesmere Way should be left for our children to play save and away from traffic. There is nowhere else for then to play, except for on the front where there is traffic.

We as Parents feel that this can be dangerous as our children could get knocked down as they are between the ages of 2 and 16. A lot of children come every weekend to visit their Grandparents in the street and they also use the field to play, there is also a bus route along Ellesmere Way so the children would bee in danger if they play on the street. The children are also very sporty and we get told to try and get our children outside to play rather than sitting in watching TV so they use the field to play football and to run about and lots of other things they can not do this on the road, as this would be very annoying to the people living round and about, we have a lot of Pensioners in our area and they do not want to listen to children kicking footballs around.

We owe it to our children to give them the freedom to play safe and comfortable which they have done for many years round here, the older peoples children played here now there Grandchildren are playing in the field now. The children do not harm nor do they damage anything, the children are not annoying anyone. What we do need is more space for our children e.g. more PARKS not housing.

We can not let our children wander off and play elsewhere as they are not safe to do this, there is already groups of young children hanging around the shops at Morton we do not want our children to do this as the older people are already terrified. Our children are safe playing on this Common Land which they have played for years as there is always one of the Parent can watch them.

I have lived on Ellesmere Way all my life I only moved when I got married but always looked for a house on this street and as soon as one came up for sale we bought it so our son could play safe on the Common Land that wee did for years. The Ellesmere Way Golden Jubilee Party was held on this Common Land because this Land has always been recognized as community Land since Ellesmere Way houses where built some 37 years ago, the Council have always maintained the land for this use

Please we ask you as a community to leave this Land as it as always been for our children's sake and for our peace of mind. Our children are too precious to let anything happen to them we want to keep them safe (do you)

PLEASE HELP US.

Yours sincerely,

Jempsin K Wing/H

36, ELLESMERE WAY, MORTON PARK, CARLISLE, CA2 6LZ CUMBRIA, ENGLAND.

Home Phone 01228-534536

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Why we think the field behind us at Ellesmere Way should stay the way it is.

The community of Morton Park feel that the common land field behind Ellesmere Way, should bee allowed for our children to be able to play in a safe environment. There is nowhere else for them to play, except on the front on there bikes up and down the front.

We as Parents feel that this can be quite dangerous, because the children are aged between 2 and 16 years of age. A lot of other children come on weekends to visit their Grandparents in our street who also play in the field.

There is a bus route also that runs along Ellesmere Way so the children would be in danger if they play on the street. Alot of the children are wanting to play football and other sporty things so the back field is a great place for them to play, where we can watch them without worrying about them going missing. If the children where to play on the street this would become annoying to the Pensioners that live round about.

We all owe it to our children to give them the freedom to play in a safe and comfortable in their own surroundings, for example the back field. The children do not harm nor do they damage anything the children are not a nuisance to anybody. There is nowhere for them to play and its not a good idea for them to wander from there own area, because as you know the council have re-housed a lot of strange people to our community the council call this (care in the community) how can our children play safe when they are scared stiff.

There is also alot of teenagers hanging around the Morton Spar and Co-op causing alot of disturbance for the older people we don't want our children doing this. Our children are safe playing in the common land behind us we as Parents can watch them. Please we ask you as a community to leave this land as it is, I have lived on Ellesmere Way most of my life I moved when I got married but is was not long before I came back the reason being was the freedom of the field behind me for my little boy to play with his pals just as I had done when we where little not bothering anyone.

Its for our children's sake and for our communities peace of mind to bring our children up safe, our children are to precious for us to let anything happen to them we want them to play save (are yours) PLEASE HELP US SAVE OUR PLAYING FIELD

Mrs J. SCMPSin

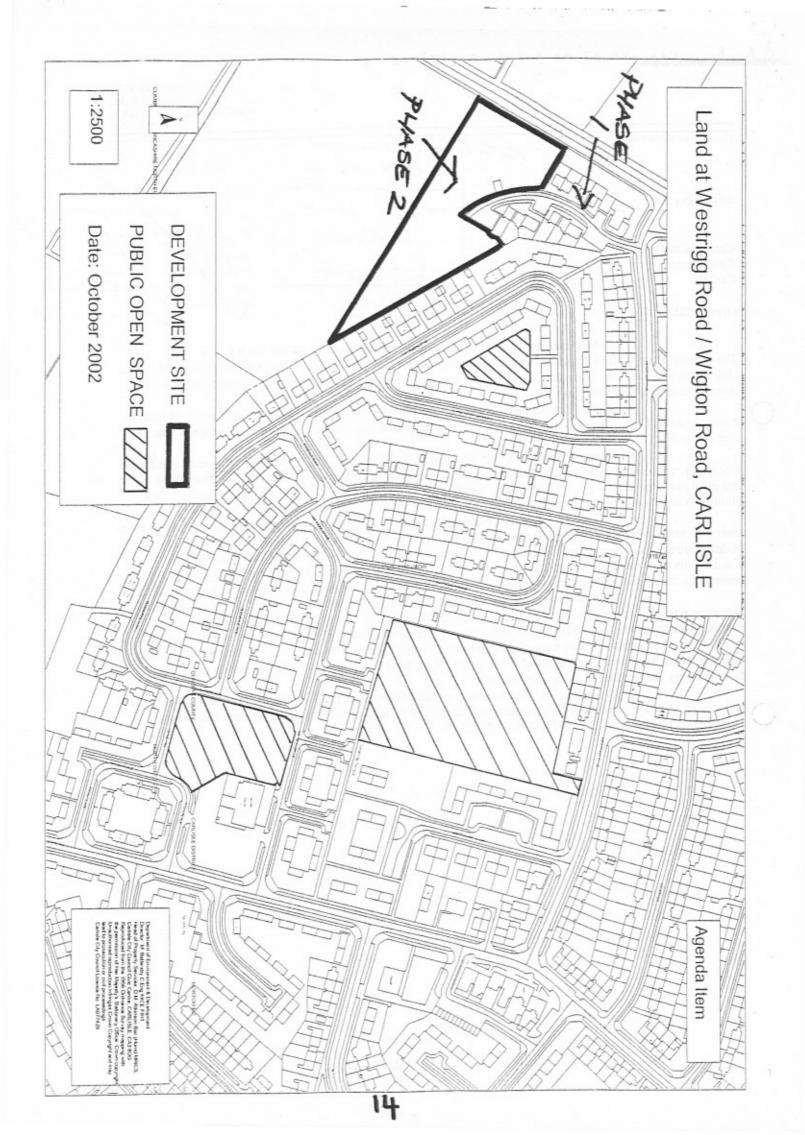
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Yours sincerely,

Your name goes here

MRS XCum

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Town and Country Planning Act 1990

PLANNING PERMISSION PLANNING PERMISSION PLANNING PERMISSION

Name and address of applicant:

Name and address of agent (if any):

Two Castles Housing Association 3 Paternoster Row, Carlisle, CA3 8TT Johnston & Wright Architects 15 Castle Street Carlisle CA3 8TD

Part I - Particulars of application

Date of application:

Application No:

91/1050

10.12.91

Particulars and location of development:

Land at Westrigg Road/Wigton Road, Carlisle.

Proposed erection of 48 no. dwellings (for rent & shared ownership).

#### Part II - Particulars of decision

The Carlisle City Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that PERMISSION HAS BEEN GRANTED for the carrying out of the development referred to in Part I hereof in accordance with the application and plans submitted subject to the following conditions:

- 01 The development shall be begun not later than the expiration of 5 years beginning with the date of the grant of this permission.
- 02 The development hereby permitted shall be carried out strictly in accordance with the approved plan.
- 03 No tree or hedgerow existing on the site shall be felled, lopped, uprooted or layered without the prior consent in writing of the Local Planning Authority; and the protection of all such trees and hedgerows during construction shall be ensured by a detailed scheme to be agreed with the Local Planning Authority prior to commencement of the development.
- 04 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and maintained thereafter to the satisfaction of the Council; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the

#### LOCATION

APPLICATION NUMBER

91/1050

Land at Westrigg Road/Wigton Road, Carlisle.

O5 The development shall be screened, particularly along boundaries of the site, in accordance with a detailed planting scheme. The proposed scheme which shall make provision for substantial tree and shrub planting, shall be submitted to the local planning authority within 3 months of the date of this approval and shall be carried out during the first planting season following the commencement of the development and thereafter maintained to the satisfaction of the local planning authority.

- 06 The proposed parking and servicing areas shall be provided, drained and surfaced in permanent materials and marked out concurrently with the construction of the proposed building in accordance with the submitted details.
- 07 There shall be no means of access, pedestrian or vehicular, between the site and existing highways except by way of the approved estate roads, footways and footpaths.
- 08 The whole of the access area bounded by the carriageway edge, entrance gates and the splays or radius kerbs shall be constructed and drained to the satisfaction of the Local Planning Authority.
- 09 No development shall commence on site until plans showing the layout of the site and details of the means of access have been submitted to and approved by the Local Planning Authority.
- 10 The carriageway and footways shall be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, shall be submitted for the approval of the Local Planning Authority before any building commences on site. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide "Roads for Housing".
- ll Detailed plans and particulars of the proposed surface finishes, fencing, and system of lighting of the pedestrian footpaths shall be submitted to and approved by the Council, and these works shall be carried out and fully operational within three months of the completion of Phase 1 of the development.
- 12 No dwelling unit shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans.
- 13 Particulars of height and materials of all screen walls and boundary fences shall be submitted to and approved by the Council prior to the commencement of the development hereby permitted.
- 14 Notwithstanding any description of materials in the application, no

# LOCATION

APPLICATION NUMBER

91/1050

Land at Westrigg Road/Wigton Road, Carlisle.

to and approved by the local planning authority. Such details shall include the type, colour and texture of the materials.

- 15 Details shall be provided of the proposed hard surface finishes to all public and private external areas within the proposed scheme.
- 16 Arrangements for the disposal of foul and surface water from the development shall provide for separate drainage systems with all Phase 1 foul sewage being connected to the existing foul sewer in Westrigg Road and Phase 2 foul sewage into the existing Ellesmere Way foul sewer.
- 17 The landscaping submission as required by the above conditions of this approval shall provide for the maintainence of a 90m by 9m by 90m visibility splay at the junction of Westrigg Road and Wigton Road. Any proposed planting within the visibility splay should be selected to ensure that it will not exceed a maximum height of 900mm.
- 18 This approval relates solely to the amended layout plan (drawing no. 10683/9B) received on 6th February 1992.
- 19 All dwellings having external elevations onto Wigton Road (the A595T), shall be so insulated that externally generated road traffic noise, when measured within the dwellings, must not exceed the following:

50dB(A) LEQ 1 hour 0700 - 1800 hours

45dB(A) LEQ 1 hour 1800 - 2200 hours

40dB(A) LEQ 1 hour 2200 - 0700 hours

The reasons for any conditions specified above are:

- Ol The condition limiting the duration of the permission is imposed in accordance with the provisions of Sections 91 or 92 of the Town and Country Planning Act 1990.
- 02 To ensure that the development accords with the scheme approved by the Local Planning Authority.
- 03 In the interests of public safety as advised by the Director of Highways & Engineering, Cumbria County Council.
- 04 To safeguard the visual amenities of the area.
- 05 To ensure that the appearance of the area is enhanced by the proper landscaping of the site.
- 06 To ensure the successful implementation of the landscaping scheme.
- 07 To ensure that adequate drainage facilities are available.



#### LOCATION

APPLICATION NUMBER

Land at Westrigg Road/Wigton Road, Carlisle.

91/1050

Date: 7th February 1992

Civic Centre,

Carlisle, CA3 8QG

Tel: Carlisle 23411 DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING

NOTE: This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation.