

## TRAFFORD METROPOLITAN BOROUGH COUNCIL

**Report to:** Management Executive  
**Date:** 10<sup>th</sup> October 2006  
**Report for:** Decision  
**Report of:** Executive Member for Strategic Planning, Prosperity and Development.

### Report Title

Watling Gate, Timperley

### Summary

To advise Members of the current position regarding the proposed sale of this surplus property, to request that Members consider objections and representations received to the advertised proposal to dispose of land within Newton Park and then determine how to proceed with the proposed disposal of Watling Gate.

### Recommendations

#### **That the Executive**

1. Re-affirms that Watling Gate is surplus to Council requirements
2. Notes its statutory duties under the Planning Acts in respect of Listed Buildings and that it is in principle opposed to the demolition of Watling Gate.
3. Notes and welcomes all the representations received in relation to the proposed disposal
4. Considers the objections to the proposed disposal of land forming part of Newton Park
5. Affirms its decision to dispose of Watling Gate to Mr. Marsden, together with such adjoining land as, land it believes appropriate for the amenity and security of occupiers, but subject to the provisos that:
  - Counsel's advice on the removal of covenants be obtained and if necessary reference be made to Lands Tribunal
  - If covenants cannot be removed the property should be re-marketed for sale for residential use only
  - the land take should be minimised but appropriate for the safeguarding and security of the Listed Building
  - Subject to further consultation with the Police regarding community safety, a footpath linkage be maintained from Leys Road to Rochester Drive, to the rear of Banbury Drive
  - That monies be allocated to the overall improvement of Newton Park following the sale of Watling Gate
  - The completion of the sale is subject to planning permission
  - Issues a press release indicating its decision and the reasons for it

Contact person(s) for access to background papers and further information:

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Background papers: Petitions received

**1. BACKGROUND**

- 1.1 This report is presented in the light of considerable public reaction to the Council's intention to sell Watling Gate and adjoining land within Newton Park, and sets out a comprehensive history of the disposal process taking into account issues raised by the public and the implications of the various positions taken by community groups in order that a response can be made to concerns raised.
- 1.2 Watling Gate is a detached former residential property located in Newton Park in Timperley and is a Grade II Listed Building. The property was bequeathed to Altrincham Borough Council in 1937 by a Colonel Newton to be used for civic purposes and has most recently been used as a children's nursery, residential accommodation for a former Council employee and for the storage of artefacts of historic interest.
- 1.3 When the nursery closed in 2004 no alternative Council uses were identified, and the property required considerable repair and refurbishment (over £250,000). The Council has an obligation to repair the building under the regulations governing Listed Buildings and disposal is one option which could deal with the protection of the building fabric. The Council is also subject to the provisions of Section 36 of the Charities Act 1993 which relates to the original donation of the building to Altrincham in order to obtain permission to sell. The property was included in the Land Sales Programme for 2005/6.
- 1.4 Prior to setting out a disposal strategy, two considerations were of paramount importance regarding the future of the property; (1) its Listed status and (2) its location within and relationship to Newton Park. It will become clear from this report that these two objectives do not sit easily together. The disposal value of the property has been of less importance, although the Council has a legal duty to obtain best price and the sale proceeds ensure the interim management costs are covered and do not fall on Council Tax payers generally. Watling Gate was, and in future could be a most attractive property and should be a visual asset within the Park. The principal aim of the disposal has therefore been to secure a viable future for the building, to ensure its restoration to as close as possible to its intended original appearance, to ensure its continuing fit within the Park and, if possible, to allow some public access to the building to enjoy its heritage. Timperley Civic Society has expressed the view that the building needs to be saved.

**Disposal process**

- 1.5 For the purposes of marketing the property for sale it was considered necessary to identify as wide a range of use as possible. Discussions with the Chief Planning Officer established that in principle Use Classes D1 (non-residential institutions, surgeries, nurseries, etc), B1 (office use) and C3 (a dwelling house) were acceptable. In the process of determining the disposal strategy the views of the Council's Conservation Officer and of the Parks and Countryside Service have also been taken into account. The Conservation Officer has been concerned to secure the future of the building and Parks Officers have sought to obtain improvements to Newton Park overall as an outcome of the sale.
- 1.6 The original conveyance of the land to Colonel Newton in 1903 stipulates that the land and any buildings thereon should not be used for any trade, business or manufacture. In order to maximise the opportunity for disposal of the building as wide a range of uses as possible was

considered. Any potential breach of the restriction in the original conveyance may be dealt with by either taking out restrictive covenant indemnity insurance or by applying to the Lands Tribunal for discharge or modification under S.84 (1) Law of Property Act 1925. No steps to do this have been taken to date.

- 1.7 Friends of Newton Park, which is a recently created group, set up to work with the Council and other partners to safeguard and improve the facilities in the park, was consulted on potential uses. Their suggested uses were largely community type uses covered by D1. No other local Groups were consulted until the disposal process was under way.

## 2. CONDITION OF THE BUILDING

- 2.1 The building is Grade II listed and the Council has legal responsibilities as owner which can best be defined by referring to Planning Policy Guidance Note15: *Planning and the Historic Environment* (1994), paragraph 3.37.

***“The Secretary of State asks Authorities to deal with their buildings in ways which will provide examples of good practice to other owners. It is particularly important that every effort should be made to maintain historic buildings in authority ownership which are no longer in active use. Prompt disposal is important: empty buildings should not be retained on a contingency basis, with all the risk of neglect and disrepair that this can create.”***

- 2.2 The property is currently in a poor state of repair with the main area of concern being in relation to the property not being watertight. Interim repairs, particularly to the roof, have been carried out on a regular basis and at the present time the building is reasonably intact. However, whilst the property has been secured by covering doors and window openings with steel sheeting and by providing internal infra-red sensors the building is subject to criminal damage and trespass and the roof is often damaged in the process. The onset of winter will require that renewal of the roof coverings is carried out if further deterioration of the building fabric is to be prevented. A current estimate for renewal of the roof is in the order of £40,000. It is estimated that a further £200,000 would be required to be expended to bring the property back to a good standard of repair.
- 2.3 £30,000 has been spent on securing the building with steel sheeting and other measures, a sum increasing by £1,500 a month. Smaller sums have been spent on urgent repairs to deal with vandalism, which are not covered by the Council's insurance policy. If this is not set against the sale proceeds, this sum will have to be met from general revenue expenditure out of Council Tax.
- 2.4 Further delay to the sale will require the Council to repair the roof if further deterioration to the roof covering and roof timbers is to be arrested.

## 3 SALE OF THE BUILDING & PARK LAND

- 3.1 This report will not include details of the bids received for the land as these are commercially sensitive and may prejudice the Council's position regarding disposal if disclosed to the wider public.
- 3.2 The property was advertised for sale with expressions of interest being invited for the types of uses referred to previously. The extent of property offered for sale is shown edged black on the attached plan (No. 711/760J). However, parties were advised that additional land would be considered if it could be demonstrated that the intended use of the building so required it.
- 3.3 Consultation with Planning Officers, the Conservation Officer and Parks Officers was undertaken in evaluating the bids, however due to the commercial confidentiality of the bids, public consultation was not undertaken at this stage.

- 3.4 All the bids received required additional land. Essentially this is due to the need to provide “defensible space” around the building for security and amenity purposes. In addition, the Conservation Officer indicated that in order that the building may be restored to its original condition in keeping with its Listed status, it requires land around it to give an acceptable setting which is not part of the Park itself. The building was subject to vandalism during its time as a Nursery and flat, and would have benefited from some form of extended boundary to have prevented this in the past.
- 3.5 Parks Officers have recognised the need to include some land around the building, but also the requirement for linkages between the various areas of the Park to minimise the potential damage to the overall operation of the Park and its enjoyment by the public. Officers have been mindful of the need to ensure that the area at the end of Leys Road does not become isolated and to allow this area to be improved in future years and develop its value along with the main Park area. Minimisation of the land taken by the disposal has been a key principle of officers’ discussions. Discussion has taken place with the Friends Group along the lines of allocating Section 106 monies and disposal proceeds from Watling Gate to enhance the quality of the remaining Park area which would compensate for the loss of the land sold. This was initially agreed with the Friends’ representatives.
- 3.6 Disposal of land which forms part of an open space is subject to the usual requirements for advertising the disposal of such public open space under Section 123 of the Local Government Act 1972 (LGA). Consideration must then be given to any objections made before a decision is made to dispose of such land. In disposing of any property the Council must have regard to the requirement under Section 123 LGA to obtain the best consideration. The Council must in this case also observe the provisions of Section 36 of the Charities Act 1993 that the disposal price is the best that can be reasonably obtained. In consequence therefore it was considered that if the Council was to secure a disposal of the building it would be necessary to include some additional land in one form or another as this would be needed by all potential bidders.
- 3.7 The building due to its location has been vulnerable to attack from vandals even when it was occupied. In order to address the issue of security, advice was taken from Greater Manchester Police Architectural Liaison Officers on ‘defensible space’ and security for Park users. Their strong recommendation has been that all the land between the building and properties on Banbury Drive should be included in the disposal. This was mindful of not creating a narrow passageway behind the houses which could be regarded as a threat to personal safety. The land within the existing laurel hedge and the lawned area to the side was included with the support of the Council’s Conservation Officer to give the Grade II building its minimum and appropriate setting.

### **Current preferred disposal**

- 3.8 The parties submitting the highest bid (Messrs. Ellison & Marsden) also required the least amount of land. They have employed Landscape Architects and were sensitive to the relationship between the house and the Park and wished to pursue the matter further. The proposed use is as a Yoga and Complementary Health Centre. Details of the marketing exercise and the bids received were reported to the Executive Member for Strategic Planning, Property and Prosperity on 6 January 2006.

It was decided that:-

- (1) the Council should enter into an exclusivity agreement for a period of 3 months with Messrs Ellison and Marsden, the highest bidders, with a view to the sale of the property subject to: -
- (i) Negotiating the satisfactory release of open space and appropriate boundary treatment.
  - (ii) Satisfying the provisions of S36 of Charities Act 1993.
  - (iii) appropriate covenants on the future restoration and use of the building

- (2) The Council should advertise its intention to dispose of open space and take into account representations made.
- (3) The Council should advertise the disposal of the building in accordance with Section 36 of the Charities Act 1993.
- 3.9 The Exclusivity Agreement has been completed and a period of discussion took place with the preferred bidder in respect of the area of land to be included in the proposed disposal. The original bids were received in November 2005 and due to the delay in being able to complete the purchase, the preferred bidder has now amended his offer in the light of a further survey of the property and because several of his intended occupiers now found alternative accommodation. This has caused him to amend his business plan and substantially reduce his bid by £150,000.
- 3.10 The purchasers have been willing to amend their proposals to accommodate a footpath behind the houses on Banbury Drive if this will allay public objections to disposal of that part of the Park. The disposal is on hold pending the outcome of the Executive's consideration of this report.

#### **4 CONSULTATION AND PUBLIC RESPONSE**

- 4.1 The Council's intentions with regards to (2) and (3) above were advertised in the Sale and Altrincham Messenger on 6<sup>th</sup> and 13<sup>th</sup> April 2006. Further advertisements were placed on 11<sup>th</sup> and 18<sup>th</sup> May 2006. Plan No. 711/760S showing the area of open space to be released coloured yellow and Plan No. 711/760T showing the total land to be sold edged red with the area shown coloured green to be restricted to garden use, were made available for inspection at Trafford Town Hall, Trafford Direct, Altrincham and Timperley Library Copies of the plans are attached to this report.
- 4.2 In accordance with the LGA, the Council is now required to consider the public responses to the advertisements concerning the intention to dispose of the open space indicated.
- 4.3 In addition to the formal advertising both officers and Ward Members have met with the Friends of Newton Park several times to explain the issues around the proposed disposal of the building and the intended course of action. It has to be said that on all occasions there has been significant resistance to the potential loss of parkland, and discussions with similar pressure groups indicate their position to be that, on balance, they regard protection of the Park as a higher priority than the disposal and refurbishment of the Listed Building. There has been some erroneous information and speculation contained in some publicity, although officers have been actively seeking to communicate the Council's intentions and the reasons behind them. The Council is not, for example, seeking to use the disposal of Watling Gate as a precedent for the sale of other areas of Newton Park for residential purposes.
- 4.4 The Watling Gate Conservation Society, representing some house owners on Leys Road and surrounding Roads, have objected to the Council's intention to remove the covenants regarding the use of the premises for business purposes as their properties are similarly affected. They are not only restricted by the covenants but also obtain benefit of it as this reduces the possibility of houses being used for business purposes in the future. However, these covenants are over 100 years old and in practice Planning restrictions are likely to be more effective and relevant as a way of protecting the locality from unsuitable development. Members should be aware that business use generated the highest potential capital receipt, and are recommended to pursue removal of the covenants to maximise value upon disposal.
- 4.5 The intention to sell the property with land around it has generated a considerable response in several ways.-

#### 4.6 **Formal Response to the Newspaper Adverts**

46 letters of objection covering areas of concern including -

- loss of open space
- loss of rights of way
- sale being contrary to the wishes of the original benefactor
- traffic generation
- housing development
- Alternative uses proposed - non profit making care home, community use, and use by the nearby Park Road Primary School.
- 7 of the 48 (15%) respondents proposed that the building be demolished rather than sold and refurbished.

Copies of the letters will be available for inspection at the meeting.

#### 4.7 **“Save Our Park” Leaflet (Copy Attached )**

4.8 A leaflet was circulated to nearby residents by the Friends of Newton Park and the Watling Gate Conservation Society setting out a number of objections and suggested potential uses. The leaflet included a tear-off slip to signify the signer’s support to keeping the entire area open for public use. 412 signed slips have been received.

#### 4.9 **Petition**

A petition containing 135 signatures has also been presented by the Watling Gate Conservation Society objecting to the:-

*‘proposals of Trafford MBC to sell off public parkland to a private developer and support the aims and objects of local neighbours and groups e.g. Friends of Newton Park and Watling Gate Conservation Society etc., in their desire to keep the entire area for open public use’*

8 of the petitioners have also submitted a tear off slip and 8 have made written responses to the adverts.

#### **Public Footpath Claim under S.53 (3) Wildlife and Countryside Act 1981**

4.10 A claim has been made for the alteration to the Definitive Map and Statement in connection with an alleged footpath from Leys Road to Rochester Drive which crosses the land included in the proposed disposal. The claim has been made by the Watling Gate Area Conservation Society to add a right of way to the Definitive Map. Before confirming the Order the Council must be satisfied that there is evidence of use by the public for a period of at least 20 years. As this area is part of the public Park then it may/would be difficult to disprove this period of use, but there would need to be evidence that the particular route claimed has been used for the required period and that this is capable of definition on site. The Head of Engineering, Architectural and Property Services is investigating the claim and will advise on its merits in due course.

### **5. SUMMARY AND RECOMMENDATIONS**

5.1 The responses to the advertisements regarding the intention to dispose of part of Newton Park have been generally against the sale of *any* parkland. In addition a claim for a definitive right of way/footpath has been made. Members are asked to note the minority of support in favour of demolishing the building altogether.

- 5.2 The Council has a duty to protect the Listed Building and has agreed in principle to sell the property. The bid made for the property has been reduced but the purchasers are willing to accommodate access to the rear to satisfy the desire for a footpath link. The purchaser is still keen to buy the property and has already made some financial expenditure in anticipation. The initial bid has already been reduced and the prospects for sale or an alternative use without adjoining land appear to be slim. It is therefore recommended that the matter of covenants be investigated and if possible removed to progress the sale to the existing purchasers.
- 5.3 The Council does not have a use for the property and has no capital allocation for its overall refurbishment if one were identified. It is clear that no use for the building by the private sector can be found which does not involve the use of a significant amount of the adjoining parkland and that this will be strongly resisted.
- 5.4 Demolition of the building, to increase the amount of parkland, would require the approval of the Secretary of State under the Town and Country Planning Act 1990. As the building can be repaired at economic cost it is thought unlikely that approval would be given.
- 5.5 In essence the Council is in somewhat of a cleft stick. It is mindful of its obligations in respect of a heritage asset (and the Civic Society's and Government expectations) and how this may be resolved by disposal to a third party. Yet it has obtained strong opposition from neighbouring members of the public who wish to preserve *all* areas of Newton Park from loss of open space. The sale of the property will secure its future and the allocation of Section 106 monies and a contribution from the sale proceeds can be used to enhance the overall quality of the Park.
- 5.6 Members must consider the representations and objections made under the statutory open space disposal procedure.
- 5.7 The Executive is recommended to agree the following –
1. to re-affirm that Watling Gate is surplus to Council requirements
  2. to note the Council's statutory duties under the Planning Acts in respect of Listed Buildings and that it is in principle opposed to the demolition of Watling Gate.
  3. to note and welcome all the representations received in relation to the proposed disposal
  4. to consider the objections to the proposed disposal of land forming part of Newton Park
  5. to affirm its decision to dispose of Watling Gate to Mr. Marsden, together with such adjoining land as, having considered the objections referred to in 4 above, it believes appropriate for the amenity and security of occupiers, but subject to the provisos that
    - Counsel's advice on the removal of covenants be obtained and if necessary reference be made to Lands Tribunal
    - If covenants cannot be removed the property should be re-marketed for sale for residential use only
    - the land take should be minimised
    - A footpath linkage be maintained from Leys Road to Rochester Drive, to the rear of Banbury Drive
    - That monies be allocated to the overall improvement of Newton Park following the sale of Watling Gate
    - The completion of the sale is subject to planning permission
    - Issues a press release indicating its decision and the reasons for it

<b>Financial Impact:</b>	Depends on sale or otherwise of Watling Gate
<b>Gershon Efficiency Savings:</b>	Not applicable to this report
<b>Legal Impact:</b>	Depends on action agreed. The Council is in breach of its obligation to repair the Listed Building.
<b>Human Resources Impact:</b>	Not applicable to this report
<b>Asset Management Impact:</b>	Protection of a heritage asset in Council ownership and proposed disposal of parkland.
<b>E-Government Impact:</b>	Not applicable to this report
<b>Risk Management Impact:</b>	Sale of Watling Gate will lead to refurbishment of the building
<b>Health and Safety Impact:</b>	Repairs to the property are carried out to prevent danger to trespassers but constant vandalism may mean risks are maintained at an unacceptable level.

**Other Options**

Refurbishment or demolition of Watling Gate is not recommended due to the lack of operational need, the desire of the Council to protect heritage assets, and the likelihood of refusal of Listed Building Consent for demolition. Attachment of insufficient adjoining land is likely to make the property unattractive to the private sector and would prejudice the future of the building. This is in keeping with advice received from the Conservation Officer and Greater Manchester Police.

**Consultation**

The proposed disposal has been subject to extensive public consultation.

**Reasons for Recommendation**

The Council must comply with legislation regarding the protection and maintenance of heritage buildings. In order to ensure that best value is obtained and the views of local residents are taken on board, the property should be sold to the existing highest bidder accommodating the principle of a footpath link identified by residents.

**Finance Officer Clearance** *(type in initials).....GB.....*

**Legal Officer Clearance** *(type in initials).....BD.....*

**DIRECTOR'S SIGNATURE** *(electronic).....*

