

**Calderdale MBC**

**Wards Affected      Town Ward**

**Cabinet                      11<sup>th</sup> December 2023**



## **A629 Phase 1B Land Designation**

### **Report of Director, Regeneration and Strategy.**

#### **1. Purpose of Report**

- 1.1 The purpose of this report is for Cabinet to consider the appropriation of Calderdale Council owned land at Exley Bank, Halifax (shown edged red on the plan attached at Appendix 1) ("the Land") from its current owning service, The Housing & Green Economy Team to Parking Services for the provision of residential permit parking as part of the A629 Phase 1B Elland Wood Bottom to Salterhebble Hill Scheme.
- 1.2 The Land is registered at the Land Registry with the property description as being Land on the east side of Exley Bank, Halifax, and registered with title number WYK842524.
- 1.3 The Council owns the freehold with title absolute as detailed in the Land Registry title information for title number WYK842524, a copy of which is appended to Appendix 4 of this report.

#### **2. Need for a decision**

- 2.1 Cabinet approval is sought to appropriate the site known as Exley Bank, Halifax. This is an internal transfer of land between two Council Departments; namely from The Housing and Green Economy Team to Parking Services to ensure that the holding power correctly reflects the future use of the land.

#### **3. Recommendation**

- 3.1 That Cabinet approves the appropriation of the land from the existing general holding powers of The Housing and Green Economy Team to Parking Services under section 122(1) of the Local Government Act 1972 on or before completion of the Scheme, or before the carpark becomes operational (anticipated March 2024) to ensure it complies with the future use of the land.
- 3.2 It is recommended that the land be appropriated from the Housing Act 1985 and/or the Open Space Act 1906 to the Local Government Act 1972, as this Act has a broader definition that reflects the use of the land.
- 3.3 The appropriation would apply only to that area of land shown edged red on the plan attached at Appendix 1.

#### **4. Background and/or details**

- 4.1 In March 2020 (Appendix 2) Planning Permission was granted to construct Exley Bank Carpark to provide permitted parking for residents affected by the removal of on-street parking to enable the signalisation of the junction at Jubilee Road and Huddersfield Road as part of the A629 Phase 1b scheme.
- 4.2 The Scheme was granted Cabinet Approval on 8th April 2013.
- 4.3 The Scheme is being funded by the West Yorkshire plus Transport Fund Programme which will improve the flow of traffic and make it easier to walk, cycle and take public transport along the A629 south of Halifax.
- 4.4 On or before completion of the Scheme the land will need to be appropriated from its present statutory purpose to another statutory purpose, being for use as a permitted Carpark for local residents.
- 4.5 If a local authority acquires land for a statutory purpose, it must hold the land for that purpose until it either appropriates or disposes of the land in accordance with its statutory powers.
- 4.6 The land was acquired by the Council's predecessor namely, the Mayor Aldermen and Burgesses of the County Borough of Halifax following the making of a compulsory purchase order cited as the Halifax (Exley Bank) Compulsory Purchase Order 1967 ("the CPO") on the 13 November 1967 which was later confirmed by the Minister of Housing and Local Government on the 23 May 1968, the latter date being the date on which the CPO became operative. Currently, the Land is owned by the Council's Housing Department as the successor in title. As the Land was acquired to create a clearance area within the meaning of the Housing Act 1957, it is deemed to be 'Open Space' within the meaning of section 20 of the Open Spaces Act 1906.
- 4.7 The Council may not appropriate any land consisting or forming part of an open space unless before appropriating the land they cause notice of their intention to do so, specifying the land in question and advertising statutory notices for two consecutive weeks in the local newspaper (Appendix 3) and consider any objections to the proposed appropriation.
- 4.8 A general power to appropriate land is conferred on principle councils under section 122 of the Local Government Act 1972, which provides that principal council may appropriate land:
  - Belonging to that council;
  - That is no longer required for the purpose for which is it held immediately before the appropriation;

The Council must consider the public need within the area of the existing use and any such appropriation shall be subject to the rights of other persons in, over or in respect of the land concerned. However, as far as the Council is aware there are not any known rights of ways or easements that presently affect the Land in question although there would have been rights pre-dating the CPO.

4.9 It is considered that the option to appropriate the land can be achieved under the Local Government Act 1972 as The Housing and Green Economy Team have confirmed that the land is no longer required by their service department and granted their approval of the appropriation to Parking Services.

4.10 Parking Services have confirmed they have no issues with the land being appropriated to their service area for them to own and manage the proposed resident permitted carpark.

## **5. Options considered**

5.1 Option 1 – remain under current holding power.

The land needs to be held under the correct holding power to reflect the future use of the land. The current holding powers are –the Housing Act 1985, the Open Spaces Act 1906 and The Local Government Act 1972– and this does not currently reflect the present and future use of the land.

5.2 Option 2 – Support the proposal as set out in this report in that appropriate the Land from Housing and Green Economy Team to Parking Services. **(Recommended option)**

Due to the broader definition of this Act which will encompass the future use, it is recommended that the land is appropriated solely to the Local Government Act 1972 under Section 122(2A).

## **6. Financial implications**

6.1 There are no financial implications attached to the appropriation of land referred to in Section 4 of this report. As commented upon in paragraph 4.2 of the report, the works undertaken on the land are being funded by the West Yorkshire Transport Fund Programme which will improve the flow of traffic and make it easier to walk, cycle and take public transport along the A629 south of Halifax.

## **7. Legal Implications**

7.1 The Council can only appropriate land under section 122(1) of the Local Government Act 1972 if the land is no longer required for the purpose for which it is currently held. In reaching this decision, the local authority must consider the public need within the area for the existing use, Therefore, as long as a permanent statutory function of permitted Car Park has been identified and the land is no longer required to be held under the Housing Act 1985 and/or the Open Spaces Act 1906 and if no objections have been received during the formal consultation period then the Council has the power to appropriate land to this purpose.

## **8. Human Resources and Organisation Development Implications**

8.1 None

## **9. Consultation**

- 9.1 The appropriation of the land from open space was formally advertised on 28<sup>th</sup> September 2023 and again on 5<sup>th</sup> October 2023 in the Halifax Courier detailing the intention to dispose of the land as open space and appropriate to Parking Services. The deadline for objections was 19<sup>th</sup> October 2023, no objections were received. A copy of the formal notices can be viewed at Appendix 3.

## **10. Environment, Health and Economic Implications**

- 10.1 None.

## **11. Equality and Diversity**

- 11.1 Not Applicable

## **12. Summary and Recommendations**

- 12.1 The appropriation of the land from its current holding powers is required on or before completion of the Scheme, or before the carpark becomes operational (anticipated March 2024) to ensure it complies with the future use of the land.
- 12.2 It is recommended that Cabinet approves the appropriation of the land from the existing general holding powers of The Housing and Green Economy Team to Parking Services under section 122(1) of the Local Government Act 1972 on or before completion of the Scheme, or before the carpark becomes operational (anticipated March 2024) to ensure it complies with the future use of the land.
- 12.3 It is recommended that the land be appropriated from the Housing Act 1985 and/or the Open Space Act 1906 to the Local Government Act 1972, as this Act has a broader definition that reflects the use of the land.

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### **For further information on this report, contact:**

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### **The documents used in the preparation of this report are:**

1. Appendix 1: Redline Boundary Plan Illustrating Area of Land
2. Appendix 2: Granted Planning Permission: Construction of Car Parks
3. Appendix 3 (1): Formal Advertisement in Halifax Courier – 28/09/23
4. Appendix 3 (2): Formal Advertisement in Halifax Courier – 05/10/23
5. Appendix 4 (1): Official Copy Title Plan - WYK842524
6. Appendix 4 (2): Official Copy Register of Title - WYK842524

**The documents are available for inspection by contacting the named above person.**