

APPENDICES

BRIERLEY HILL AREA COMMITTEE

DATE: 9th NOVEMBER 2004

REQUEST TO: PURCHASE LAND

LOCATION: ADJACENT TO 8 CAM GARDENS, PENNETT
(As shown on the plan attached)

BACKGROUND

A report regarding this matter was deferred from a meeting of this Committee on 16th March 2004, to allow for further investigation and further consultation, taking into account the recommendations of a Members site visit held on 19th February 2004.

The recommendation of the site visit was to try and negotiate a split of the site, between the two applicants, so that no.8 could purchase the front part of the land for garden purposes and no.10 could purchase the remainder for access.

To reiterate, the area of land adjacent to 8 Cam Gardens, Pensnett, is an area of Council owned land controlled by the Housing Department and forms a grass verge within the estate, adjacent to a pedestrian access to No. 10 Cam Gardens.

Both properties have been sold under the right to buy and No. 10 Cam Gardens has recently changed hands.

Applications have been received from both the owner of no 8 Cam Gardens and from the owner of 10 Cam Gardens, to purchase this area of land. The owner of 8 Cam Gardens wishes to maintain the land as a pleasant grassed area and the owner of 10 Cam Gardens wishes to gain vehicular access to the property by extending their existing driveway.

The applicant at 8 Cam Gardens claims that they have maintained the land for in excess of 29 years and the former owner of 10 Cam Gardens has sworn a statutory declaration claiming that he had maintained the land for in excess of 20 years before selling the property. Both applicants have been advised that in order to claim a possessory title one must prove, amongst other things, that they have had sole possession of the land for a period of in excess of 12 years. In this case, the land has been open and unfenced and is registered to the Council. Also by virtue of the fact that both parties claim to have maintained the land, sole possession cannot be proved.

COMMENTS

The relevant Council Directorates have been consulted regarding both applications.

The Directorate of Housing had no objections to the land being declared surplus to requirements as it is of no beneficial use to the Council but would not wish to sell all of the land to one party only as it may lead to a potential dispute between the owner/occupiers.

The Directorate of Law and Property recommended that the land could be declared surplus to requirements and sold for the best price reasonably obtainable, inviting both parties to make offers for the land.

Green Care maintain the area of open land within the estate on behalf of the Directorate of Housing and state that upon inspection, if it is found that grass has recently been cut, it would not be cut again by Council Staff.

The alternative to disposing of the land would be to retain it in Council ownership as a grass verge. However, the Housing Directorate would then be responsible for its continued maintenance.

The Councils surveyor has discussed at length the possibility of splitting the land with both applicants but has been unable to reach an agreement.

The owners of 10 Cam Gardens would be happy to purchase sufficient land to put in an access driveway to allow them to park 2 cars on the front of the property, subject to the fire hydrant sign being moved to the back of pavement and a dropped kerb being installed, at their own expense. They consider that this would elevate problems with parking on the road.

The owners of 8 Cam Gardens however, are adamant that they will not agree to a split of the land and consider that they have maintained the land for over 30 years and disagree that the owner of no. 10 should acquire any of the land. If they cannot purchase the land then they would wish the land to remain as a grassed area.

The current options are therefore to:

1. Retain all of the land in Council Ownership.
2. Declare the whole area of land surplus to requirements to be sold to one or other of the applicants, as considered appropriate by the Director of Law and Property.
3. Dispose of part of the land to no. 8 Cam Gardens for access and retain the remainder in Council ownership.

PROPOSAL

That the Area Committee consider the applications and make a recommendation to the Lead Member for Housing.

BACKGROUND PAPERS

1. Letter(s) from the applicant.
2. E-mails and memos from the Council Directorates.

Contact Officer: Gill Hudson, Property Manager, Ext. 5311

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