

# Report

## Cabinet Member for Assets

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### Part 1

**Date:** 14 June 2021

**Subject** **Land Adjacent to 39 Brangwyn Crescent**

**Purpose** To seek approval from the Cabinet Member for Assets for the disposal of the land adjacent to 39 Brangwyn Crescent to the occupier of 39 Brangwyn Crescent.

**Author** Housing and Asset Manager

**Ward** Beechwood

**Summary** Agree to the disposal of Open Space adjacent to 39 Brangwyn Crescent in order to benefit from a capital receipt and reduction in maintenance costs.

**Proposal** To seek the approval to declare the land adjacent to 39 Brangwyn Crescent surplus and sell the freehold in order to gain a capital receipt.

**Action by** Head of Regeneration, Investment and Housing

**Timetable** Immediate

This report was prepared after consultation with:

- Strategic Director - Place
- Head of Finance – Chief Finance Officer
- Head of Law and Regulation – Monitoring Officer
- Head of People and Business Change
- Head of Regeneration, Investment and Housing
- Housing & Assets Manager
- Service Manager Environment and Leisure
- Team Manager – Parks and Recreation
- Associate Director of Property Services, Newport Norse
- Associate Valuation and Estates Management, Newport Norse

**Signed**

## Background

The occupier of 39 Brangwyn Crescent has shown interest in purchasing the land adjacent to their property (See plan attached below) for use as off road parking, which would alleviate parking issues within the surrounding area, and erection of a garage. To satisfy planning requirements the garage would be required to attach directly to the house and face Brangwyn Crescent in the same direction. All of the adjacent land is required to facilitate this direction of access.

The land is owned freehold by Newport City Council, is appropriated to City Services and allocated Public Open Space. The land forms part of Kelly Road Park, but is separated from the main park area.

The Leisure department are happy to dispose of the land, due to its location being remote from the main area of the park and the reduction in maintenance costs the sale would bring. The collaboration between the occupier, Newport City Council and Newport Norse has meant that all parties would benefit from the future use of the land.

Due to the land being allocated Public Open Space the potential purchaser was notified that there is a statutory requirement to advertise the disposal in the South Wales Argus. The occupier has been made aware of and has agreed that these additional costs the statutory process requires will be borne by them, including any other associated fees and purchasers costs.

If the sale is approved by the Cabinet Members the process of advertising the sale of Open Space would be required and would appear in the South Wales Argus for two consecutive weeks. The public would have 28 days to offer any comments or objections and if any are received they would be reported to the Cabinet Member for consideration. If no comments or objections are received then the sale can proceed after the 28 day period.

Due to the size of the land there will be a restriction on the use of the land to garden, driveway, for off road parking and erection of a garage only. This use has been reflected in the asking price of £9,000 and to prevent further development, which could impact the value of the land. Due to the restrictions to be imposed on the future use of the land, overage provisions are not considered to be necessary in this case.

The Council would benefit from a capital receipt and would have reduced costs for the long-term maintenance of the land. Although the parcel of land is linked to Kelly Road Park it is separated by a road and therefore not utilised as Open Space as much as the Park is. There is no public right of way over the land and the only access through the land is to the occupiers house. The other houses in the same terrace all have their own separate access from the road and a number have fenced off their forecourts.

The disposal of the land may also assist parking issues for the adjacent occupier, which will in turn help to alleviate and prevent some of the wider parking issues within the area. This will also aid the local area and community to become a safer place if parking issues can start to be alleviated. The wider community have not been consulted in the process due to the land being sold to a special purchaser, the current occupier of the adjoining land. If the land was not adjacent to anyone who would directly benefit from the land, wider involvement and consultation in the community would have been sought.

The sale proposed without being subject to planning and will need to apply separately for the garage/parking use. Therefore, any ongoing and long-term maintenance for the Council will be alleviated as the occupier would become responsible for the maintenance and upkeep as garden land. This will contribute to the long-term well-being for the purchaser and have no adverse impact for the wider community. Therefore, the Well-being and Future Generations Act goal of a Wales of cohesive communities will be achieved, without adversely affecting any of the other Well-being goals.

## Financial Summary

	<b>Current Income</b>	<b>Potential/Projected Income</b>	<b>Capital Receipt</b>	<b>Ongoing Costs</b>
	<b>£0</b>	<b>£0</b>	<b>£9,000</b>	<b>Unknown</b>
<b>Notes</b>				

## Risks

<b>Risk</b>	<b>Impact of Risk if it occurs* (H/M/L)</b>	<b>Probability of risk occurring (H/M/L)</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its effect</b>	<b>Who is responsible for dealing with the risk?</b>
Failure to dispose of the asset will result in no capital receipt for the Council	L	L	Position will remain and land will stay as Open Space with responsibility of maintenance remaining with NCC.	NCC and Newport Norse
Interested party does not wish to purchase the freehold	L	M	As above	NCC and Newport Norse

\* Taking account of proposed mitigation measures

## Links to Council Policies and Priorities

The Council's corporate plan 2017-2022 provides a number of well-being objectives. The proposed disposal meets the objectives by looking at the long term plan for the land, and alleviating the ongoing maintenance costs for the Council. Although, the community may lose out on some land the overall benefit maybe provided by less cars parking on the road and pavements meaning a safer place for the public.

## Options Available and considered

The Council could:

1. Dispose of the freehold title with a restriction for use as garden land, off-road parking and erection of a garage only to gain a capital receipt and alleviate maintenance costs.
2. Keep the land as Open Space but continue paying for the maintenance costs.

## **Preferred Option and Why**

The recommendation is to declare the property surplus and for the Cabinet Member to approve the freehold sale, with the use restrictions mentioned above, to the occupier of 39 Brangwyn Crescent to benefit from a capital receipt of £9,000, which provides best value.

## **Comments of Chief Financial Officer**

Disposal of this asset will benefit the Council by the realisation of a capital receipt, which is reinvested into the Council's overall capital programme. Disposal of the asset will also reduce any maintenance liabilities.

## **Comments of Monitoring Officer**

The proposed action is in accordance with the Council's statutory powers to re-appropriate and dispose of surplus land in accordance with Section 122 and 123 of the Local Government Act 1972. Because the land is public open space, it will be necessary to give 2 weeks public notice of the intention to re-appropriate and dispose of the land under sections 122 (2A) and 123 (2A) of the Local Government Act 1972. These notices will need to be published in consecutive weeks in the South Wales Argus and the Cabinet Member will need to consider any objections received during this period before deciding whether or not to proceed with the proposed appropriation and disposal to the owners of the adjoining property. It is noted that the owners have agreed to pay for the costs of the statutory notices. The land is not required for any specific Council services and the only issue from a property perspective is whether this is an unacceptable loss of public open space. Given the informal nature and location of the open space, it appears to have little public amenity use and it only has a special purchaser value for the owners of the adjacent property for use as a garage parking area. Although the Council has a duty under s123 to secure the best price reasonably obtainable for the land, it would appear to have no alternative use, except as part of this adjoining property. Therefore, the proposed purchase price would represent best value, with an appropriate restriction on the sale in relation to garage/parking use and it would generate a small capital receipt for the Council, as well as a saving on maintenance costs. If the cabinet member is minded to approve the disposal and there are no objections to the statutory notice, then the sale can proceed. If there are objections, then a further Cabinet Member report will be required to consider those objections.

## **Comments of Head of People and Business Change**

From an HR perspective there are no staffing implications.

The report writer has considered the sustainable development principle of the Well-being of Future Generations Act (Wales) 2015.

## **Local issues – Comments of Ward Members**

Cllr D Davies - As the land is unused and its sale would not impact on any public rights of way or community activity I am comfortable with this proposal.

## **Scrutiny Committees**

N/A

## **Equalities Impact Assessment and the Equalities Act 2010**

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The

Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

### **Children and Families (Wales) Measure**

No consultation has taken place.

### **Wellbeing of Future Generations (Wales) Act 2015**

The author has given consideration to the Act throughout the background of the report. Consideration has also been given for the well being objectives as allowing the sale to proceed will begin to create a safer community by alleviating some of the parking issues in the area. Although the land is Open Space plenty remains in the park meaning the local community still have a large area to maintain a healthy and active lifestyle, participating in sports and recreation in the park. This will also help increase the cohesiveness of the community by keeping recreational space but also providing a safer environment with off street parking. If the prospective purchaser makes the suggested changes it will allow work to be undertaken that would not have previously been available.

### **Crime and Disorder Act 1998**

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

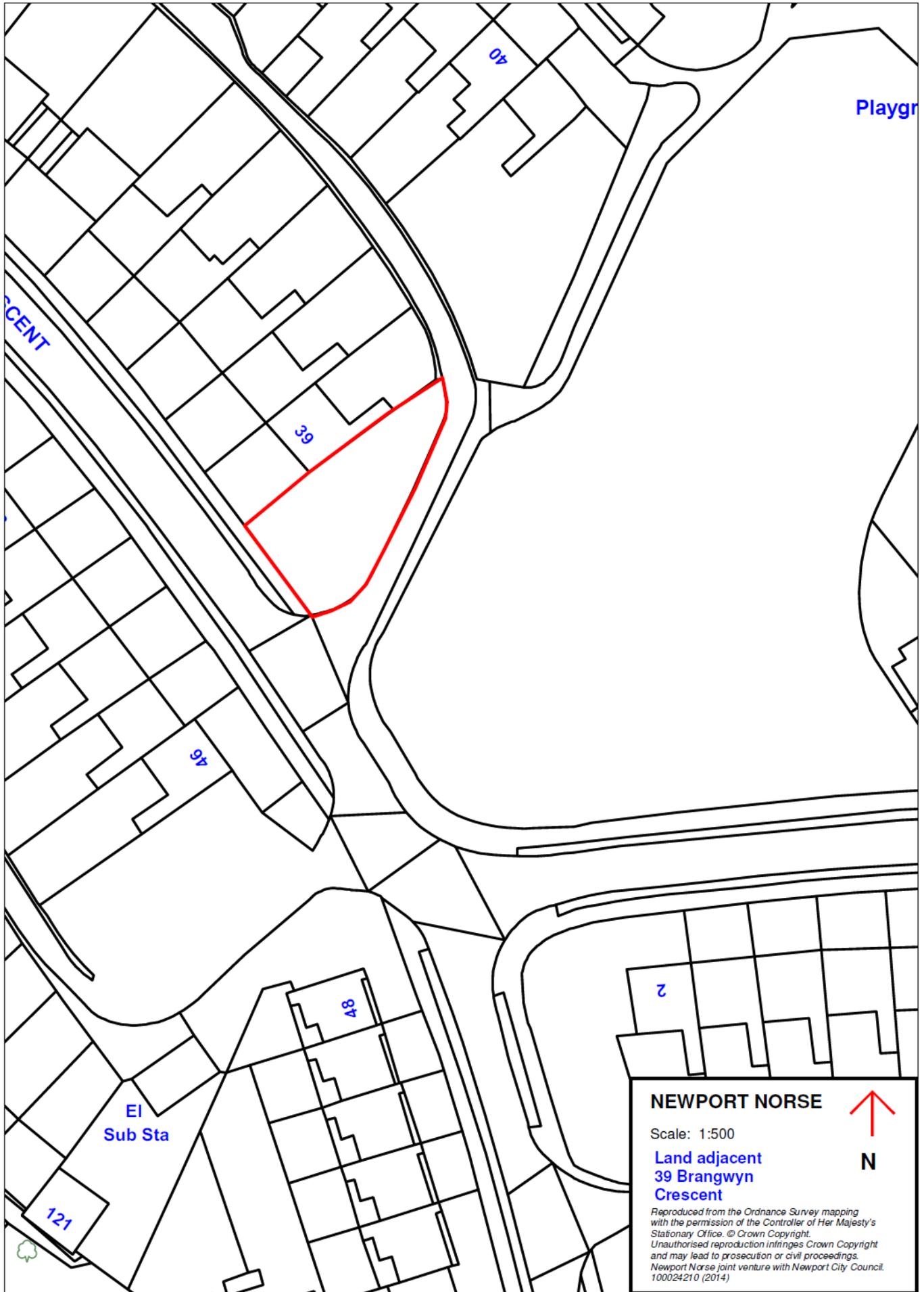
### **Consultation**

Consultation has taken place with relevant Council Officers; Ward Members will be invited to comment through the consultation process.

### **Background Papers**

None

**Dated: 28 May 2021**



**NEWPORT NORSE**

Scale: 1:500

**Land adjacent  
39 Brangwyn  
Crescent**



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