

CITY OF  
WOLVERHAMPTON  
C O U N C I L

## Response to Request for Information

Reference EIR 000121  
Date 09 March 2017

### ***Land to the rear of 102 Ward Road/Park Hall Road***

#### **Request:**

Under the Freedom of Information request, please provide me copies of:

Location: to the rear of 102 Ward Road / Park Hall Road

Land Registry Title Number: MM50463 The information relates to an area of land, which Wolverhampton Council was freeholder for and subsequently disposed of.

Thank you for your request for information about the above. We are dealing with your request under the Environmental Information Regulations 2004 rather than Freedom of Information. In response to your request, please find our response below:

- 1) Measurements of area of land agreed in the transaction?  
The site is an irregular shape please see attached plan A showing extent of the subject land and dimensions from City of Wolverhampton Council's in house mapping system.
- 2) Details of any other records that exist, which show location of the boundary in relation to the pathway and tenanted building, which Wolverhampton Council retains freehold of?  
A copy of the title plan (Plan B) from is attached showing the extent of the land in relation to pathways in retained land.
- 3) Indication of which land owner has responsibility for the fencing?  
The fencing enclosing the land purchased is the responsibility of the purchaser to maintain.
- 4) Measurements of area of land in original application and which the first consultation within the authority was based on?  
These are unavailable at present, the original application does not refer to a specific measurement and record of the consultation was not retained by incumbent surveyor at the time.
- 5) Details of survey/measurements of the boundary, completed by Wolverhampton Homes in June 2015, instigated by Darren Baggs. Any information/records/ correspondence which identifies any discrepancy in comparison to the actual land transferred?

There was not a survey at this point, the reference to the discrepancy related to the position of the boundary in relation to the alignment with existing boundary and other rear boundaries.

- 6) Details of survey/measurements of the boundary, completed by Wolverhampton Council Estates department in approx. July 2015 instigated by Glyn Roberts (interim asset manager). And any information/records/correspondence which detail any discrepancy in comparison to the actual land transferred?  
Please refer to Plan A as above.
- 7) Measurements of the potential negotiated new boundary, as detailed in letter from Glyn Roberts on 03/08/2015 to myself, Emma Purshouse, in the stage 1 complaint response?  
No further measurements were taken at this point, discussions with the purchaser lead to acknowledgement that the boundary needed realignment.
- 8) Details of survey completed in approx. August 2016 regarding the incorrect boundary, in response to review by Local Government Ombudsman. To include measurements and specifics of the 'marginal difference' they quoted in the position of the boundary, that had been established. Any further survey/details of site visit completed approx. October/November 2016 which on both occasions was attended by a Surveyor from Bruton Knowles?  
An initial meeting onsite was undertaken in August 2016 with a further meeting on site in December 2016. Check measurements were only taken on this occasion to assist with the discussions about alignment, in addition discussions were had in relation to quality of the installation of the fence.
- 9) Details of instructions given to contractor in amending fence and details of new position; i.e. measurements and location?  
Instructions were provided at a site meeting on the 16<sup>th</sup> December where the key points were agreed for the realignment between parties.
- 10) Details of costs of;
  - a) Any third part service/advice/consultation used in surveying the boundary to establish correct location?  
In-house services were supported by the council's strategic partner Bruton Knowles at a total cost of £1913.93 excluding vat.
  - b) Services of contractor to remove the existing fence and its replacement?  
The removal and replacement of the existing fence was undertaken by the Council's Term Contractor and cost c£3,000-£4,000.
  - c) Details and costs of any materials or equipment used (unless covered within Contractors costs)?  
The Council considers that the information you have requested in question 10 b) and c), which we have identified above, is exempt from disclosure under Environmental Information Regulation 12(5)(e), 'Confidentiality of Commercial or Industrial Information'. Exception 12(5)(e) of the Act permits the Council to withhold information if its disclosure would, or would be likely to, prejudice the commercial interests of any person, including the public authority holding it.

We should explain that exception 12(5)(e) of the Act permits the Council to withhold information if its disclosure would, or would be likely to, prejudice the commercial interest of any person, including the Public Authority holding it. The Council considers that to disclose the information you have requested, at this stage, would prejudice the commercial interests of the parties concerned and this information is therefore exempt from disclosure under Environmental Information Regulation 12(5)(e).

This information is commercially sensitive to the company and it is important to their competitiveness that they are able to remain as a participant in the market. With regards to the Council's commercial interest, if the Council disclosed this type of information it would adversely affect our ability to source suppliers in a competitive environment.

Where the Council decides that the information requested is exempt from disclosure under exception 12(5)(e), it must then apply what is known as a "public interest test". This requires the Council to decide whether, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing information.

In applying the public interest test the Council gave careful consideration to the arguments for and against disclosure. When considering factors which would favour disclosing the information, the Council had to assess whether disclosure of the information would:

- Allow for more informed debate on the issue;
- Promote accountability and transparency for our decisions and in our spending of public money; and
- Assist the public to understand and challenge our decisions.

Against these considerations the Council had to balance the likelihood of disclosure having an adverse affect on the commercial interest of the company concerned and the Council itself.

Having taken into account the arguments for and against disclosure, the Council decided that the public interest in this case is best served by maintaining the exemption and by not disclosing the information requested, at this stage. The Council considers that the possible benefits of disclosure are outweighed by the real risk of causing prejudice to the commercial interests of the company concerned and the Council itself. In this case there is an overriding public interest in ensuring that companies are able to compete fairly and in ensuring there is competition for public sector contracts.

- 11) Details of where the costs to fund these has been obtained from, i.e. department/revenue source/account – The final costs were £4729.56 net and made from General Funds.