



## Report for Officer Executive Decision

**Date:** 3/09/2021

**Title:** Release of Open Space Designation, Quebec Road, Wycombe

**Relevant councillor(s):** Councillor John Chilver – Cabinet Member for Property & Assets

**Author and/or contact officer:** John Reed – Director of Property and Assets

**Ward(s) affected:** **Totteridge & Bowerdean; Councillor Steve Guy, Councillor Imran Hussain, Councillor Julia Wassell**

### **Recommendations:**

The Director of Property and Assets is authorised to release the Open Space Designation for the site outlined in this report to Red Kite community housing for nil premium to support the delivery of a small scheme of affordable housing on the site.

### **Reason for decision:**

The site is listed in the transfer of housing assets as Open Space, the definition of open space being 'any land laid out as a public garden or used for the purpose of public recreation'. As a garage site as shown on the attached plans it is not open space and the transfer documentation was incorrectly drafted.

Red Kite have confirmed that removal of the designation of the site will create affordable housing for sale and rent and no capital receipt is likely to the Council and no market housing will be created. This was foreseen by the stock transfer more detail of which is set out below.

Referencing the disposals policy: the Open Space covenant is separate from the clawback agreement in the Stock Transfer (Clause 3.2) which only bites upon a **Disposal** (not being an Exempt Disposal) which "*assists or facilitates any development*". The Stock Transfer was amended by the Deed of Amendment of Disposal Clawback Arrangement dated 17 June 2016. The effect of which is to create a new form of Exempt Disposal. Provided that the Council is informed of the disposal including a plan of the land the name of the disponent(s)

and the consideration paid and Red Kite immediately pays the consideration received into the Disposal Proceeds Account, no monies are payable to the Council. However, the monies received must be applied to development or acquisition of Affordable Housing within 3 years (or Red Kite must pay interest on the money into the Disposal Proceeds Account) and must commit the monies within 10 years or pay back up to 50% of the remaining monies including interest to the Council.

Red Kite have confirmed that should they pursue disposal of the site, this condition will be fully complied with but the disposal policy cannot be applied to the removal of the Open Space restriction as they are separate issues.

The decision will facilitate the provision of affordable housing a key aim of the Unitary Council as shown on the plan below numbered BM364672.



**Authority to take this decision:** This is a decision being taken by the Director of Property and Assets under the Officer Scheme of Delegation.

**Other options available, and their pros and cons:**

Do Nothing – This is not the recommended option. Red Kite would most likely succeed in a dispute in obtaining costs against the Council and this would tie up valuable Officer time in a dispute the Council is unlikely to win.

Attempt to charge a premium – This would be against the provisions and principles already established in contract with Red Kite.

**Conflicts of interest:**

There are no known conflicts of interest.

**Key Risks:**

As set out in the report.

**Legal and financial implications:**

As set out in the report. There are no financial implications. Red Kite have agreed to meet the Councils reasonable legal costs.

**Next steps and review:**

On approval Solicitors will be instructed to agree the Deed of Rectification

**Exemption from publication:**

This report does not need to be exempted from publication

**Background papers**

None

**Lead Officer:**

**Signed:**

**Date:**

**Director Property & Assets: John Reed**

**Signed:**



**Date: 18-10-21**

**(Where there is a financial implication to the OED)**

**Finance Lead Officer: Claire Hunter**

**Signed:**



**Date: 18/10/21**

