



Committee	Full Council
Month	October 2023 – Extraordinary meeting
Report Title	Well Green Close – Amenity open space
Report Author	Lisa Courtney, Town Clerk
Attachments	None

Agenda item: 4

Summary

SWTC has become aware the land commonly referred to as Well Green Close, illustrated below, is available to purchase at auction on 2 November 2023. Council is requested to consider the purchase of this land at the auction.



Current Usage

The land is used as amenity public open space by neighbouring residents. There is no record of the original planning application on the Uttlesford Planning portal, the documents should list the intent of the land; this information has been requested from planning officers by District Councillors and further details are awaited. It is possible the land was always allocated as public open space, but records are not currently available to confirm that (note the site was developed in the 1970s).

SWTC could seek to register the land under the Village Green Act the application must evidence: *The land has been used for 20 years or more, and is currently in use, for sports and pastimes as of right and the land was used for sports and pastimes as of right for 20 years or more, but that use stopped being as of right no more than 1 year before the date you apply¹.*

¹ <https://www.gov.uk/guidance/commons-registers-apply-to-record-new-events#apply-to-register-a-town-or-village-green>

The land also provides an unofficial route for pedestrians to walk from Hill Top Lane to Well Green Close. SWTC could seek to register this as an official public right of way with Essex Legal Services.

Neither of these applications (registering as PROW or Village Green status) are instant processes; a public consultation seeking 20 years of usage will be required for both. Should SWTC proceed with either of these options a legal letter must be issued to the owner and auctioneer prior to the auction bid on 2nd November 2023, to ensure they understand our intention to register the land use prior to the auction – further details of this are provided in the options below.

SWTC Maintenance

For approximately 20 years SWTC has maintained the land and understood the land was owned by Essex County Council. SWTC has cut the land under contract from Essex County Council who also (until recently) believed the land was theirs.

It appears however, that ECC does not own the land; a land registry search confirms it is owned by a third party with *Title Absolute* meaning ownership of a property cannot be legally contested or claimed against. Sometimes reversed as 'Absolute Title', it is the best and strongest form of property ownership title.

Legal advice notes that SWTC may still contest ownership under 'adverse possession' given it has maintained the land (and can evidence this) for a number of years. This process is likened to 'squatters rights'. This same legal advice however, advises against progressing this line of enquiry given the process is very difficult and it is unlikely any claim would be successful. This option is not therefore further considered or progressed within this report and is now discounted.

Auction

The auction takes place online on 2 November 2023, with a recommended starting bid of £3,000, excluding legal fees. SWTC has been informed several parties are interested in the land.

SWTC could purchase the land to ensure longevity in maintaining the site as open space for amenity use, this would prevent the potential sale to a third party where dwellings might be built. The auction site suggests the land could be used for residential development.

SWTC does not however have the budget to purchase the land or accommodate the legal fees. Should SWTC solely pursue this option, it further sets a precedent for the purchase of 'unclaimed' land and SWTC may find itself faced with requests from other residents to purchase unclaimed land and may find it difficult to negatively respond to these requests, given the precedent set at Wells Green Close.

Costs

The cost of the land sale is unknown should SWTC be minded to bid for the land, it will need to determine a maximum bid price.

Legal fees will be an additional cost. Should SWTC proceed with some or all the options above (seeking to register the land as village space and/or PROW, legal letters to the auctioneer and owner) costs are likely to be in the region of £3,000 (minimum estimate).

Funding

Two Ward Members have offered a total £2,000 utilising their Ward Members Initiative Fund monies to fund a bid for the land.

Residents have provisionally also offered monies toward the purchase of the land, but at time of writing, there is no certainty of this offer or assured commitment. The process may be:

- Residents donate monies to SWTC prior to the auction, and/or
- SWTC issues a legal agreement with residents, providing written confirmation of the residents' commitment should SWTC be successful in any auction bid. This action will itself incur further legal fees which could be recovered from residents and must be completed before the auction date.

Bidding

Should SWTC resolve to purchase the land utilising third parties' money Council must determine:

- Maximum bid
- Who is authorised to bid on behalf of SWTC (suggesting authorisation delegated to the Town Clerk)

Options

1) Registering a Public Right of Way

To formally start the process to register a Public Right of Way from Hill Top Lane to Well Green Close, notably this is a lengthy process and determined by Essex Legal Services.

A legal letter should be provided by SWTC's solicitor to the owner and auctioneer ahead of the 2 November auction, so they are aware of SWTC's intent. This will be an additional cost to SWTC's budget.

2) Registering land as a Village Green

To formally start the process to register the amenity open space as a Village Green. Again, this is a lengthy process and determined by Essex Legal Services.

A legal letter should be provided by SWTC's solicitor to the owner and auctioneer ahead of the 2 November auction, so they are aware of SWTC's intent. This will be an additional cost to SWTC's budget.

3) Submitting a bid

To make a bid on 2 November to purchase the land to retain the public use and register to vote prior to the auction. If this option is chosen, the following must be determined:

- (a) Who will be delegated responsibility to make the bid? Recommended this is the Town Clerk, acting on full delegated power and authority of the Council.
- (b) How to fund the bid? SWTC has no monies set aside to fund the purchase of this the land. Consideration must therefore be given to the use of third parties monies to avoid setting a precedent in potential future land sales. Monies secured/offered to date:
 - £2,000 from Ward Members Initiative Funds
 - Local residents have offered to contribute. At time of writing a figure has been suggested at a total of £6,000 but not yet confirmed.

If progressing with the option of submitting a bid, Council must further determine:

- (c) The maximum bid to be paid;
- (d) The mechanism for collecting monies from local residents. This should be in the form of a legal agreement between SWTC and residents, agreed prior to the auction, confirming how much each resident will contribute and when. In order to pursue this, SWTC needs a firm commitment from residents to inform both the legal agreement and the maximum auction bid.
- (e) Should residents not firmly commit to financially supporting the purchase, SWTC must consider its position in this matter and the precedent set of any sole purchase.

4) Pre-Auction Arrangement

SWTC could seek to enter into an agreement with the seller prior to the auction, the following would apply:

- (a) SWTC would need to present and agree its best bid, (acknowledging the interest in the land, this bid would need to be more than £3,000);

- (b) There would be no further negotiations and the price will be final;
- (c) A deposit would need to be paid immediately for 10% of purchase price.

5) To take no further action

Taking this position, the Council acknowledges the land is held title absolute and within the owners right to sell. Council further recognises that should SWTC purchase the land it could set a precedent when future land is available to purchase (this assumes no contribution from residents).

Recommendation

- (a) To consider all of the options as presented above and to make an informed decision regarding progression of this matter. The options above are not mutually exclusive and SWTC could seek, for example, to progress with options 1-3 above or another combination of options.
- (b) Should SWTC proceed with any or multiple of the recommendations above a legal fee will need to be met, likely in the region of £3,000 (note this is an estimated cost at this time). Council is therefore requested to confirm this expenditure which is met either from Council's own legal budget and/or with a contribution from residents.