

# Procedure for purchasing small parcels of Council owned amenity land

The Council owns land for operational and amenity purposes and occasionally may consider offers to purchase small parcels of amenity land from adjacent residential home owners.

Although the Council is under no obligation to sell any amenity land, this guidance note outlines the Council's adopted procedure for dealing with requests from prospective purchasers and the fees and costs that an applicant may incur.

## Property Assets

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## Introduction

If you are interested in purchasing a small parcel of Council owned amenity land adjacent to your own property for your personal use, please read the following procedure before making an application. In most instances there are 6 stages which are explained below each of which need to be followed in turn. At the conclusion of each stage the applicant will be informed of the decision.

The process is complicated; however land that is owned by the Council is public property and the Council is obliged to comply with certain statutory requirements as well as consult with people who may be affected by the sale.

The Council is not obliged to consider the sale of amenity land. Fees and charges are non-refundable whether or not the application proceeds to completion, even when the application is declined by the Council at any one of the stages of the procedure. Fees and charges payable for each stage of any application are identified in the table below.

## Council administration fees & charges

Application fee	<b>£182.50</b>
Land valuation fee	<b>£325</b>
Statutory Notice charges for disposal of public open space*	<b>£450</b>
Change of Use planning application fee	<b>£462</b>
Council's Minimum legal fee (varies depending upon complexity)	<b>£750</b>

Charges are accurate at 1 April 2023 and subject to revision from time to time

*\*Fees for Statutory Notices are set by the relevant publication and therefore are not in the Council's control*

Applicants should note that fees and charges are in addition to the purchase price of the land, based upon the valuation and their own advisors' fees e.g. surveyors/solicitors fees and land registration costs. Payment of the fees and charges will not guarantee that the application to buy the land will be successful.

The Council will consider applications only if you are also the owner of the adjoining property. You may be required to provide evidence of this.

Timescales for the Council's decision where provided are indicative only.

# Reasons for the Council Retaining the Land Ownership

In certain circumstances the Council will not be able to consider an application for the purchase of amenity land. The majority of these circumstances are set out below:

## 1. Planning & Highways Criteria

- Land forms part of an existing or potential strategic or locally important open space
- Ward is deficient in public open space as defined in the adopted Local Plan
- Area contains a Scheduled Ancient Monument / Tree Preservation Order or encompasses Protected Hedgerows
- Land is subject to adopted Highway rights
- Land encompasses a right of way, cycle or footpath
- Land has a title covenant that restricts its use or requires it to be retained as public open space
- Land sale will cause detrimental effects within neighbouring or nearby properties
- Boundary of land to be sold is shared by more than one property

## 2. Health & Safety Criteria

- Land sale will reduce the width of any public rights of way corridors
- Land sale will adversely affects highway sight lines
- Land forms part of riparian buffer zones or flood plain protection
- Land contains services or land drains

## 3. Amenity Criteria

- Area acts as a wildlife corridor
- Land has specific habitat / species protection / biodiversity
- Land sale would impact upon or cause loss of local amenity / recreational value
- Land contains public art
- Land acts as a residential buffer

## 4. Maintenance Criteria

- Land sale would inhibit access to other Council land and/or increase maintenance costs for any retained landscaped areas
- Land sale would result in loss of trees / shrubs / hedges

## 5. Best Value Criteria

- The land is suitable for development and / or may be of interest to other parties and best value will be obtained only if it is offered for sale on the open market
- The Council has other foreseeable operational use of the land

## 6. Other

- The Applicant has outstanding debts with the Council

# The Application Procedure

**Please note that planning permission will be required and the success of such an application cannot be guaranteed. Please see Stage 5 below.**

## Stage 1 – Initial Enquiry

This procedure applies to those wishing to purchase a piece of land adjacent to property that they own, for garden use, parking or for extending an existing property. Separate rules and procedures apply for development use.

Prior to making a formal application you are advised to have an informal discussion with a representative of the Property Assets team giving details of the land you wish to purchase and the use of it you propose.

Property Assets contacts: Email: [property@swindon.gov.uk](mailto:property@swindon.gov.uk)

The Property Assets team will check that the Council owns the land you are interested in purchasing; that the land ownership title does not contain any restrictions that would prevent the sale; that known 'exclusions' don't apply (see Reasons for the Council Retaining the Land Ownership above) and that the Council service department responsible for the land will support the sale, subject to completion of the necessary steps outlined within this procedure. You will then be advised whether or not the sale can be considered by the Council and any reasons for refusal. If the matter can be considered you will be asked to submit an application form and advised of the current fees/charges that will apply.

(Indicative timescale for Councils decision 4-5 weeks)

## Stage 2 – Application

Please submit the fully completed, signed and dated [Purchasing amenity land application form | Swindon Borough Council](#) if possible with a plan or simple drawing attached showing the land in question. On receipt of the application, we will send you link to enable you to pay the application fee (£182.50) online. We cannot process your application until we have received the application fee.

You should ensure that you disclose your future intended use correctly including your proposed method of enclosing the land and boundary treatment as the Council will consult based upon this information and if there is a later change then this may require a new application.

The Council will confirm receipt of your application and begin the consultation process with your local Ward elected members.

You will then be advised whether or not the sale can progress to the next stage including any conditions upon which the sale can proceed or any reasons for refusal, if applicable. If the proposed sale is supported by the Council you will be asked to confirm whether you wish to proceed to the next stage, given a time limit for confirming this and asked to supply the Valuation Fee (£325).

(Indicative timescale for Councils decision 8-10 weeks)

### **Stage 3 – Valuation**

The Council is obliged by statute, under the Local Government Act 1972, to sell the land for the best price reasonably obtainable. If you have paid the Valuation Fee within the indicated time limit, the Council will apply the open market value to the land and then make you an offer to purchase the land based upon that valuation. Please note there is a minimum sale price of £2,100 for any parcel of land, no matter its size. This means that if the open market value of the land you are apply to purchase is less than the minimum sale price, the price of the land will be £2,100.

You will be asked to confirm whether you wish to proceed to the next stage, given a time limit for confirming this and asked to pay the Statutory Notice costs.

(Indicative timescale for Councils decision 3-4 weeks)

### **Stage 4 – Statutory Notices for Disposal of Public Open Space**

If the amenity land that you propose to purchase is deemed to be Public Open Space then the Council is obliged by statute, under the Local Government Act 1972 to advertise the proposed sale within a local newspaper for two consecutive weeks and consider any objections received. In order to comply with this requirement the Council advertises the proposed land sale within the Swindon Advertiser and you are required to pay for the charges incurred for this. If objections are received following the advertisement, the matter will be referred to the relevant Cabinet Member for a decision.

You will be advised of the outcome of the Statutory Notices, whether or not the sale can proceed to the next stage and any reasons for refusal. If the proposed sale is supported by the Council you will be asked to secure planning permission for the change of use from Public Open Space to your proposed use.

(Indicative timescale for Councils decision 4 - 5 weeks)

### **Stage 5 – Planning Permission**

Planning permission will be required for change of use and development of the land that you propose to purchase or for other matters such as fencing and boundary treatment. You are responsible for making a formal planning application and you should make your own enquiries about this aspect of your proposals with the Council's Development Control Planning team. It is your responsibility to ensure that any permission required is gained prior to the start of any works.

Once you have secured any necessary planning permission then you must inform the Council's Property Assets team, provide evidence that planning permission has been secured and confirm that you wish to proceed to the next stage. Any decision by the Council to sell the land is separate from any decision to grant planning permission and you should not assume that planning permission will be granted automatically just because the Council has agreed to sell the land and vice versa.

## Stage 6 – Sale Contract

The Council will issue you with a final offer letter, subject to contract and you will be given a time limit for confirming that you want to proceed. Once you have confirmed that you wish to proceed the Council's legal team will be instructed to issue and complete the land transfer documentation. You will be required to pay the Council's legal fees which will depend upon the complexity of the case, the time taken and the number and extent of queries that are received from your own solicitors. The Council's legal team will collect the land purchase price and their legal fees from you as part of the land sale completion process.

The land sale contract will include strict conditions on any future disposal to ensure that the land will always be linked to the adjacent property that you currently own and not be separated from or sold for other purposes in the future, i.e. to build a separate dwelling.

The Council's legal team cannot provide you with legal advice on your proposals. You must appoint your own solicitors to deal with the land purchase and provide their contact details to the Council. You will be responsible for their charges and disbursements as well as land registry fees for registering your new land ownership and any stamp duty land tax post completion.

(Indicative timescale 10-14 weeks)

## Other Options

If having read the above you no longer wish to proceed with a land purchase but would still like to be able to maintain but not enclose the land then the Council can consider a Licence agreement to permit this. In this instance you should contact the Property Assets team who will be able to explain the terms and conditions upon which such a Licence agreement could be granted.

## Appeals

There is no appeals procedure, but if you feel that you have additional information, or justification to support your application that has not already been considered, or if you amend your application in some way, we may be able to process your application again, based on the new information.

Please note that you may be charged further administration fees if your revised application involves undertaking the consultation process again.

**The Council reserves the right to review and amend this procedure at any time**