

COMPLAINT UPHELD BY THE LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN (LGO) RELATING TO LAND AT HIGHFIELDS TREE BELT WEST CHESTERTON

To:

Councillor Sam Carling, Executive Councillor for Open Spaces and City Services

Environment and Community Scrutiny Committee

Report by:

Anthony French, Asset Development Manager, City Services Group
anthony.french@cambridge.gov.uk

Wards affected:

West Chesterton/Arbury

Not a Key Decision

1. Executive Summary

- 1.1 The Council considered a complaint in relation to the management of land using the Council's complaints procedure¹. This complaint could not be resolved at Stage 2 of our process, and the complainant referred the matter to the Local Government & Social Care Ombudsman (LGO)
- 1.2 The Local Government & Social Care Ombudsman (LGO) investigated the complaint covering a range of issues regarding City Council public space at Highfields Tree Belt (see appendix A for a location map) and found there was fault by the Council with two of the areas which caused the complainant injustice.
- 1.3 The LGO found the Council at fault in how it kept its records for its biodiversity assessments and inspections even when it does not identify and substantive issues or risks and in respect of security of the locked access to the site.

¹ [Compliments, complaints and suggestions - Cambridge City Council](#)

- 1.4 The LGO provided an agreed action for the council to demonstrate it had changed its record keeping procedures by 17th May 2023.
- 1.5 The LGO has subsequently been provided with evidence that the action has been completed and has formally accepted that the identified service improvement actions, offered by the Council to the complainant, have been fully actioned by the Council.

2. Recommendations

2.1 The Executive Councillor is recommended to:

- a) Note the findings of the Local Government & Social Care Ombudsman in respect of this case and the actions taken by the Council in response to these findings.

3. Background

- 3.1 The complainant has been anonymised for the purposes of this report and will be referred to as Mrs E throughout.
- 3.2 The City Council own and manage a plot of land known as Highfields Tree Belt. The land is formally in the ward of West Chesterton but is surrounded by properties which have rear gardens which back onto the land in both West Chesterton and Arbury wards.
- 3.3 The land was under stewardship of Property Services until 2018 when it was agreed to be transferred between services to Environmental Services, Streets and Open Spaces. This transfer was seen as a 'best fit' for future management owing to its natural habitat and environmental attributes for which the service has a range of officers with technical expertise and profession in land management and the natural environment.
- 3.4 During 2019, an approach was made to the City Council by a city based educational organisation for use of the land for hosting educational learning sessions in the natural environment.
- 3.5 It is not uncommon for the City Council to use a land asset for events and education and therefore after an assessment by Officers from the Streets and Open Spaces Team and consultation with ward members the land use was agreed.
- 3.6 In recognition that this was a new use of land that neighbouring

residents would be unfamiliar with, the Council wrote to those bordering the land in October 2019. The purpose was to inform of the use and its commitment to a management plan for the site to ensure the new activities did not compromise the natural habitat. The management plan would ensure this integrity as well as looking to make enhancements to the space across its duration.

- 3.7 There were a few uses of the land prior to the Covid-19 pandemic beginning in March 2020 using the City Council land hire process (set number of sessions) which meant the use ceased or was limited according to the varying 'lock down' laws for a two-year period.
- 3.8 In emerging fully from the pandemic, the use for environmental education was once again requested over the academic year under agreed license and terms to provide some flexibility on session scheduling rather than set numbers via the land hire process. The Council sought to put the promised management plan in place in the late summer 2022 following a public consultation earlier in the year.
- 3.9 The consultation captured a range of views and included recommended parameters of operation for number of sessions and maximum attendees on a weekly basis. These measures were set out in a licence agreement with those wishing to use the site.
- 3.10 After the use by license was agreed by the then Executive Council for Open Spaces, Food Justice, and Community Development in August 2022 there has continued to be a range of views expressed locally regarding impact on the space and disturbance to residents. The complaint made by Mrs E went through the City Council's complaint system and then at the request of Mrs E was reviewed by the LGO with a final decision given on 17 March 2023.
- 3.11 Mrs E complained about the Council's processes and decisions regarding the change of use of the land near to her house. She says the Council failed to conduct an environmental impact assessment and it has not demonstrated how it will protect the biodiversity of the site. She also says it mismanaged the consultation process, it failed to properly secure the site and it has now increased the number of organisations that have access to it.
- 3.12 Mrs E says the matter has made her stressed and anxious. She is concerned about the impact the Council's decisions will have on the environment.

4. The Ombudsman's findings, analysis, and agreed actions.

4.1 The full LGO report is available for viewing with the following key points extracted to cover the areas in which fault was found:

- I. *Mrs E complained to the Council about its failure to properly secure the site. She said the gate remained open when children were on site. She asked it to install a key fob system that allowed authorised people to access the site at agreed times.*
- II. *The Council responded and said it did not have the budget and it was not possible to install a key fob system. It said it would contact users to ask them to make sure they locked the access gate when they left the site. It said it recognised the concerns of residents and it would create a management and monitoring plan to help better oversee activity on the site.*
- III. *Mrs E remained dissatisfied. She said fob systems were widely available. She said if the site was not properly secured it could lead to burglaries and increased levels of unauthorised access.*
- IV. *The Council accepted in its response to Mrs E's complaint the system it had in place to secure the site was not robust enough. I accept this would have caused Mrs E some worry as she lives near to the site. The Council has now taken action to resolve this issue, and it now has a robust system where it has a record of those who have access to the site. This is a suitable remedy for Mrs E's injustice.*
- V. *Mrs E is concerned the Council failed to conduct an environmental impact assessment and it has not demonstrated how it will protect the biodiversity of the site. When the Council responded to my enquiries, it provided me with a tree survey which shows an officer inspected the health and safety of the tree stock. The Council also said its biodiversity officer visited the site, but it has no records. It said it did not keep any records as the potential for negative impact was low, and safety had been covered by the tree survey. It also said the outcome of the assessment work was communicated verbally between officers, and this is not uncommon where the site assessment work does not identify any substantive issues or risks.*
- VI. *The Council should have kept a record of the inspections and the biodiversity assessment. I do not accept that just because the potential for negative impact was low, it was appropriate for it not to keep any records. It is important the Council can evidence its decision making. It should change its record keeping procedures to ensure it keeps records of such matters even when officers do not identify any substantive issues*

or risks.

VII. First agreed action: The Council will change its record keeping procedures by 17 May 2023 to ensure it keeps records of biodiversity assessments and inspections even when it does not identify any substantive issues or risks.

VIII. Second agreed action: The Council should provide us with evidence it has complied with the above action.

Paragraphs 4.1. i to 4.1.viii inclusive, are direct extracts from the LGO report.

5. The Council's response

5.1 The Council has dealt with the LGO's action, as detailed in section 4.8 within the requested time.

5.2 The LGO has accepted the evidence provided that the agreed actions have been undertaken and where required evidence provided to satisfaction.

6. Implications

a) Financial Implications

None

b) Staffing Implications

Requirement for all officers to record and log visits undertaken to Highfields Tree Belt.

c) Equality and Poverty Implications

An Equalities Impact Assessment is not required for this item as no decisions are to be made.

d) Net Zero Carbon, Climate Change and Environmental Implications

The report is for information with no decisions to be made, there are no climate change related implications therefore the overall rating is 'Nil'.

e) Procurement Implications

None.

f) Community Safety Implications

None.

7. Consultation and communication considerations

None.

8. Background papers

LGO Final report 17 March 2023

9. Appendices

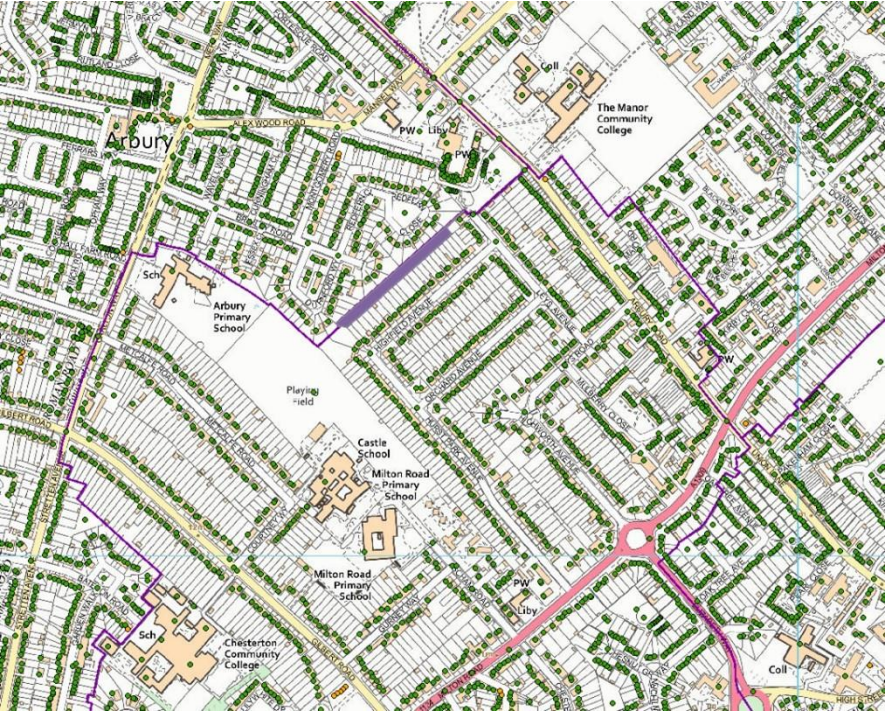
Appendix A – Location map

10. Inspection of papers

If you have a query on the report please contact Anthony French, Asset Development Manager,
email: Anthony.french@cambridge.gov.uk

Appendix A - Location Map

Map 1 – Location of Highfields Tree Belt (shown purple)



Map 2 – Aerial Photo

