

## Report of the Place Director to the meeting of Shipley Area Committee to be held on 23<sup>rd</sup> March 2021

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### **Subject:**

Ellar Gardens Public Open Space (POS) in Menston

### **Summary statement:**

The Council received a petition from Ellar Gardens Residents Association (EGRA) in Menston on 13 March 2020 regarding a number of issues regarding the use of the public open space (POS) at Ellar Gardens residential area.

### **EQUALITY & DIVERSITY:**

None applicable

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**Overview & Scrutiny Area:**

## 1. SUMMARY

1.1 The Council received a petition on 13 March 2020 from Ellar Gardens Residents Association (EGRA) in Menston containing 57 signatures. This was presented, virtually, to Full Council on 8 December 2020. The representative for EGRA unfortunately had technical difficulties and was unable to speak at the meeting, a copy of his statement is included in this report (Appendix A). Full Council referred the matter to Shipley Area Committee. The content of the petition is summarised below;

- *The illegal cutting down of shrubs and trees on the open green space*
- *Illegally extending their gardens to include part of the open green space and then fencing the land so they gain ownership of the land and putting in a gate for access to the back of their property across the open green space*
- *Driving heavy goods vehicles across the open green space to access their back gardens for building/construction work*
- *Bringing their dustbins across the open green space to leave and be collected from Ellar Gardens instead of the front of their own properties*
- *Parking on Ellar Gardens and then using the open green space to walk to the back of their houses.*
- *Also a resident at 16 Burley Road is in the process of having a large ready-made building, Zedbox with a bathroom, kitchen and living/sleeping areas for residential purposes situated at the back of their garden next to the open green space. Access is likely to be across the open space via their back gate and parking will also likely to be on Ellar Gardens.*

## 2. BACKGROUND

2.1 A representative for Ellar Gardens Residents Association (EGRA) has corresponded with the Council on a number of occasions since 2017 regarding above issues including the Chief Executive, Steve Hartley, Julian Jackson, Philip Davies MP, Ward Councillors and Menston Parish Council. Culminating in the Council receiving the petition on 13 March 2020.

2.2 Officers in the Parks Service were delegated to investigate the concerns raised back in 2017, and in subsequent correspondence including this petition, and have done so in consultation with officers from a number of services,

2.2.1 It has been explained, in correspondence and telephone conversations with the said representative of EGRA that the POS is for all members of the public to use for recreation purposes.

2.2.2. Letters were sent, May 2017, to individual residents about specific issues raised and it was agreed the situation would be monitored.

2.3 The following actions were carried out to address the specific issues raised in the petition.

2.4 **The illegal cutting down of shrubs and trees on the open green space**

- 2.4.1 Officers were unable to find specific evidence other than the establishment of paths to access the rear of properties. See photographs in Appendix C.
- 2.5 **Illegally extending their gardens to include part of the open green space and then fencing the land so they gain ownership of the land and putting in a gate for access to the back of their property across the open green space**
- 2.5.1 All residents which have a rear boundary onto the POS, notably Burley Road and Otley Road, received a letter dated 23 July 2020 (Appendix B) “request that you remove all personal belongings, rubbish etc and re-instate the land to the Council’s satisfaction by 16 August 2020”. **All complied.**
- 2.5.2 One property, (See Appendix C property labelled D) has installed a fence which appears to encroach on to the POS. This property received a separate letter and 2 telephone conversations have taken place. The Land registry plan (See Appendix D) shows a curved boundary whilst the photographs show a squared fence line (see Appendix C page 4). The property owner states he replaced the existing fence, with a new one, in the same location. We have not yet been able to establish the correct boundary as there is no evidence of the original planted Hawthorne bushes (See 3.2.2) the curved boundary could be the grass line show in the photo on page 4 Appendix C and without specific measurements we cannot be confident of the original boundary. We would need to engage a professional surveyor to reach the correct conclusion. **To be decided.**
- 2.6 **Driving heavy goods vehicles across the open green space to access their back gardens for building/construction work**
- 2.6.1 This was an issue when the building work was taking place (See Appendix C property labelled C) was taking place and on a couple of occasions for another property removing rubbish from their back garden. This has now been outlined as inappropriate with the residents in question by telephone conversations. Any further requirements for access should be directed to the Council and a formal agreement will be required with appropriate conditions within.
- 2.7 **Bringing their dustbins across the open green space to leave and be collected from Ellar Gardens instead of the front of their own properties**
- 2.7.1 This is specific to 2 properties on Burley Road which have very long back gardens with no access through their house to the front. They have a specific arrangement with colleagues in Waste Collections to enable them to take their brown bins, for which they pay a subscription, to Ellar Gardens for collection, provided they remove them asap after emptying. Both residents agreed to comply.
- 2.8 **Parking on Ellar Gardens and then using the open green space to walk to the back of their houses.**
- 2.8.1 Officers have no issue with access across the POS to the rear of properties, on foot, it should be noted that this is very difficult when the undergrowth is high during certain times of the year. We believe this is why a number of residents had put in place pathways. As previously mentioned they have all been informed by letter (Appendix B) that paths should be removed and in a number of cases they have

been spoken to individually.

- 2.8.2 The wider issue of parking on Ellar Gardens is more for Highways to comment. To our knowledge, it is a public highway not a private road and there are no yellow lines.

### **3. OTHER CONSIDERATIONS**

3. The land in question is shown to be Public Open Space on the Councils Estates & Property Portal it also is stated as 1.27 hectares of Amenity Greenspace in the Councils Local Plan.

- 3.2 The Councils Parks & Cleansing team removed debris from the POS which could not be attributed to anyone to assist in the tidying up of the area. It should be noted that they have also, on a number of occasions, removed fly tipping when a report has been received.

- 3.3 All residents on Burley & Otley Road received a letter dated 4 September 2020 (See Appendix E) thanking them for their compliance with our previous request and informing them of some remedial works which would be taking place in the near future.

- 3.3.1 The Councils Trees & Woodlands Service commenced work on the POS on 11 February 2021. These works included removal of the severe ivy growth on trees, as it is detrimental to their wellbeing. A number of trees will be crown lifted to a height of 2m. This will allow light and encourage healthy growth to the lower ground areas. Non-native trees i.e. conifers will be removed.

- 3.3.2 The original planning approval and when the Ellar Gardens Developer handed over the maintenance to Bradford Council in the late 1990's, the perimeter of the POS would be left as a 'wild buffer' for both habitat bio-diversity and rear boundary security. This wild buffer helped improve rear boundary security as the POS was not overlooked (but backed onto) reducing natural surveillance. 'Secured by Design' advice advocates deterrent planting in such circumstances and the brambles, longer meadow grass etc. helps deter access. Whilst many of the original Hawthorne bushes have been removed, there are a few which remain and are evidence of the original provision. The rough edge also protects the boundary trees (planted at the time) from mower damage.

It is therefore our intention to re-instate a wild buffer to continue habitat bio-diversity and protect the POS from future encroachments and in-appropriate use.

- 3.3.3 The Councils Parks maintenance team will then flail cut to a lower level and it will be enhanced with some wildflower seeding at the appropriate time of year (Spring 2021)

### **4. FINANCIAL & RESOURCE APPRAISAL**

- 4.1 Financial resources have been allocated to carry out the above work from existing maintenance budgets.

4.2 Should further investigation into the fence encroachment (2.5.2) be required, officer time and resources will need to be identified which may include legal expenses as the resident has verbally expressed they would 'fight' any action.

4.3 If there are any future issues, of a similar nature, with the POS which require attention, funding will have to be identified but cannot be guaranteed.

**5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

None

**6. LEGAL APPRAISAL**

None

**7. OTHER IMPLICATIONS**

**7.1 SUSTAINABILITY IMPLICATIONS**

None

**7.2 GREENHOUSE GAS EMISSIONS IMPACTS**

None

**7.3 COMMUNITY SAFETY IMPLICATIONS**

None

**7.4 HUMAN RIGHTS ACT**

None

**7.5 TRADE UNION**

None

**7.6 WARD IMPLICATIONS**

7.6.1 Ward Members, Neighbourhoods Ward Officer and Menston Parish Council have been updated on the situation by email on 7 September 2020

**7.7 AREA COMMITTEE ACTION PLAN IMPLICATIONS  
(for reports to Area Committees only)**

None

**7.8 IMPLICATIONS FOR CORPORATE PARENTING**

None

## **7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT**

7.9.1. None

## **8. NOT FOR PUBLICATION DOCUMENTS**

8.1 None

## **9. OPTIONS**

### **9.1 OPTION 1**

Conclude that all issues raised in the petition have been addressed to an acceptable level and accepting the possible fence encroachment be closed and left as is. Continue to maintain the area of POS in line with statutory requirements and monitor the situation at the same time.

9.1.1 EGRA may not accept conclusion that all issues have been addressed to their satisfaction.

9.1.2 EGRA would have to understand a lot of officer time and resources have already been allocated to address these issues and this cannot continue.

9.1.2 A positive would be that no further officer time and resources would be required to investigate issues.

### **9.2 OPTION 2**

Conclude that the majority of issues raised in the petition have been address and Allocated further officer time and resources to continue to investigate the possible fence encroachment to satisfactory conclusion. Continue to maintain the area of POS in line with statutory requirements and monitor the situation at the same time.

9.2.1 EGRA would accept that full conclusion achieved

9.2.2. Further officer time and resources would be required which is a pressure on the Service taking into consideration the amount of time and resources already allocated.

## **10. RECOMMENDATIONS**

### **10.1 Recommend that Option 1 be accepted to:**

Conclude that all issues raised in the petition have been addressed whilst accepting the possible fence encroachment be closed and left as is. Continue to maintain the area of POS in line with statutory requirements and monitor the situation at the same time.

## **11. APPENDICES**

- Appendix A Statement from representative of EGRA
- Appendix B Letter to residents dated 23.7.2020
- Appendix C Location plan and photographic evidence
- Appendix D Title No WYK18614 14 Burley Road Location Plan
- Appendix E Letter to resident dated 4.9.2024

## **12. BACKGROUND DOCUMENTS**

### **For information only**

- 12.1 Planning Application was 93/00117 (not included) can be viewed on the Councils Planning Portal
- 12.2 Councils Local Plan – Ellar Gardens 1.27 hectares of Amenity Green Space (not included) can be viewed online.

