

**From:** CommunityRight <CommunityRight@shropshire.gov.uk>

**Sent:** 28 May 2021 14:36

**To:** Town Clerk <info@wem.gov.uk>

**Subject:** Notice to Nominator/Town Council of receipt of Intention to Sell Land at Fothergill Way Wem

Our Ref: CR2B00138

Further to the successful nomination of the above land and its listing as an Asset of Community Value, we have been notified that the owners intend to sell the property.

In accordance with Section 97 of the Localism Act 2011 I am writing to notify you, in your capacity both as Town Council and Nominator, that we received notice under Section 95(2) of the said Act that the six week interim period commenced on 28 May 2021 whereby a community interest group, as defined in regulation 12 of the Assets of Community Value (England) Regulations 2012 (referring to the bodies in paragraph (1) (d) to (g) of regulation 5), can make a written request to be treated as a potential bidder. **This period expires on 09 July 2021.** Should any requests be received, the full moratorium period of six months would end on 28 November 2021, and the protected period of 18 months under Section 95 would expire on 28 November 2022.

A copy of the attached Moratorium notice will be placed on site, and the above dates will be added to the entry for this property on our published list of assets of community value. For the avoidance of doubt I enclose a plan showing the area currently included in listing CR2B0138

I would appreciate if you could confirm receipt of this email by return.

Kind regards

Carol Mills,

Assets Officer - CRTB & CAT, Property & Development Team  
Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND. ( 01743 281014,  
: [www.shropshire.gov.uk](http://www.shropshire.gov.uk).



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### Background

Over several years the Town Council had been approached intermittently by Persimmon Homes regarding the transfer of this land for a commuted sum.

The Town Council had several concerns about taking on the land due to the large number of structures on the site which would long term require specialist maintenance.

Following much debate and many site meetings on 13.6.19 the Amenities and Services Committee passed the following resolution

### **Resolved:- to Recommend**

**That the Town Council agrees in principal to take on the Public Open Space off Fothergill Way subject to the following conditions being met by Persimmon Homes**  
**Funding**

- The funds accompanying the land transfer are deemed to be sufficient to enable the Town Council to undertake the ongoing maintenance of the site.

**Bridge**

- A structural condition report of the bridge is required and any concerns raised rectified.
- Fencing is required around the concrete drainpipe adjacent to the bridge.

**Open ditch and open overflow (for the sewerage system) drain by the hedge**

- Post and rail fencing and chain-link fencing is required along the length of the ditch. This should match fencing on Shropshire Council owned play area (The Grove Play Area) .
- The ditch on the west side of the boundary needs cleaning out and vegetation cut back prior to fencing.
- The ditch on the west side of the POS will not form part of the adoption agreement. The Town Council will only take on responsibility up to the new fence that is to be installed alongside the ditch. The ditch and gabions will remain the responsibility of Persimmon Homes.
- The Town Council would not be able to take on the maintenance of the existing sewage system located in the boundary hedge between the Grove Play Area and the Fothergill Way POS and that responsibility for all drains on the POS would remain with Persimmon Homes.

**Boundary Fencing**

- The boundaries of the open space on the south and west side of the boundary must be clearly identified prior to transfer.

**Footpath leading to a hedge and lack of connection with existing play area**

- The tarmac path leading to The Grove Play Area needs to be raised to the same level as the ground on The Grove Play Area and culverted to enable the Town Council's tractor, flail and mowing machinery to access the POS from The Grove.

**Streetlights**

- As the lights have not been linked to the mains they must be removed before adoption can take place.

**Trees**

- A tree survey should be carried out on all trees on the POS and any work identified from the survey must be carried out by Persimmon Homes.

**ROSPA**

- An up to date ROSPA report on the POS would be required by the Town Council and any work identified must be carried out by Persimmon Homes.

This recommendation was approved by Full Council on 23.6.19 under minute point **32/19**.

However when approached Persimmon Homes stated that they would not maintain liability of gabions and ditch. Following this response the matter was brought to the Town Council again for consideration on 30.1.20 and the following minute was recorded

**164/20 RESOLVED:- to note the response but before the matter is closed to query with Persimmon Homes the actual ownership of the of the ditch and gabions.**

Persimmon Homes were approached again in February 2020 and they confirmed in an email that whilst a large section of ditch and gabion lies within the deeds of a property on

Fothergill Way Persimmon Homes hold liability for the ditch and gabions to the north West of the POS.

Based on this information on 10.3.20 the Town Council's Amenities and Services Committee passed the following resolution

**Resolved:- to recommend that due to the inclusion of the gabions in the transfer of this public open space not to progress with the land transfer.**

Town Council meeting 28.5.20 approved this recommendation under minute point **194/20**.

Persimmon were informed and the land was subsequently sold at private auction in September 2020 (at the time of writing the land is still registered to Persimmon Homes.)

Following the same the Town Council requested that the land be registered as an Asset of community value and this was approved under minute point **263/20** and this was approved in January 2021.

#### **Clerks Recommendation**

**That considering the previous resolutions this matter is not pursued.**