



Report for:	Cabinet	Item Number:	
Title:	Appropriation of Housing Land for Planning Purposes		
Report Authorised by:	Lyn Garner, Director of Regeneration, Planning and Development		
Lead Officer:	Michael Kelleher, Head of Housing Investment and Sites Tel: 020 8489 4754 E-mail: michael.kelleher@haringey.gov.uk		
Ward(s) affected: All		Report for: Key Decision	

1. Introduction

- 1.1 In November 2013, Cabinet approved the council's Housing Investment and Estate Renewal Strategy which authorised phase 1 of a council new build programme on parcels of land held in the Housing Revenue Account. Phase 1 is progressing and the council is expected to be in contract for the construction of 31 units on eight of these sites before 31 March 2015.
- 1.2 This report seeks authority to appropriate these eight sites for planning purposes to enable development. The eight sites are:
- Anderton Court, Alexandra Park Road, N22
 - Parking area, Barnes, Clarence Road, N22
 - Connaught Lodge garages, Connaught Road, N4
 - Ednam House garages, Florence Road, N4
 - Parking area, Fenton Road, N17
 - Parking area, Whitbread Close, N17
 - Land between 10 – 12 Muswell Hill Place, N10
 - Land adjacent to 82 Muswell Hill Place, N10



2. Cabinet Members Introduction (joint introduction by the Cabinet Member for Regeneration & Housing and Cabinet Member for Planning)

- 2.1 In November 2013, Cabinet approved the council's Housing Investment and Estate Renewal Strategy as a way of improving existing stock and providing much needed new affordable housing through the introduction of a council new build programme. The strategy highlighted a number of sites that are owned by the council and held within the Housing Revenue Account (HRA) which are currently underused in their current form.
- 2.2 The eight sites highlighted in this report will provide a total of 30 affordable homes as part of phase 1 of the council's new build programme. The homes will include 21 social rented properties which will be allocated to applicants from the housing register and nine low cost home ownership properties for households that want to get onto the housing ladder but cannot afford to buy a property on the open market. All homes will be prioritised for local people.
- 2.3 The new build programme is an important aspect of the council's wider regeneration aims, seeking not only to provide new homes for local residents but to promote or improve the economic, social and environmental well being of the local area by making best use of our assets.

3. Recommendations

- 3.1 It is recommended that Cabinet: -
- a) Confirms that the pieces of land set out below and shown edged red on the plans at Appendix 1a to 1h are no longer required for the purpose for which it is held (currently held for housing purposes) and approves the appropriation of these pieces of land, for planning purposes under section 122 of the Local Government Act 1972 and subject to the powers provided by section 237 of the Town & Country Planning Act 1990 for the reasons set out in 5.9 of this report .
- Anderton Court, Alexandra Park Road, N22
 - Parking area, Barnes, Clarence Road, N22
 - Connaught Lodge garages, Connaught Road, N4
 - Ednam House garages, Florence Road, N4
 - Parking area, Fenton Road, N17
 - Parking area, Whitbread Close, N17
 - Land between 10 – 12 Muswell Hill Place, N10
 - Land adjacent to 82 Muswell Hill Place, N10

4. Alternative options considered

- 4.1 The council has previously considered the continued use of these sites in their current usage as parking, garages and small areas of open space ancillary to Council



Haringey Council

homes, managed in the Housing Revenue Account. These assessments have concluded that the sites are underused or inappropriate in their current usage and can be better used to provide additional affordable housing, for which there is an acute level of need in the borough.

- 4.2 The council has obtained planning permission for new homes at these sites and, in preparing the development proposals for which consent has been obtained, the Council has sought to mitigate the impact on the surrounding area.
- 4.3 The council has considered developing homes on these sites without appropriating the land for planning purposes, however, the need to develop additional affordable homes as soon as possible is acute, both to meet housing need and reduce the use of temporary accommodation for homeless households.
- 4.4 To not appropriate the land for planning purposes would risk the proposed developments being frustrated by third party rights, which in turn could frustrate and delay the building of the first council homes in Haringey in over 25 years. However, the council recognises the potential rights of third parties and will pay compensation where a legal basis for such payments is established. Local residents have been consulted on the schemes as they proceeded through planning and any comments or objections taken into consideration by Planning Committee in reaching its decision.

5. Background

- 5.1 At its meeting on 28 November 2013, Cabinet approved the council's Housing Investment and Estate Renewal Strategy setting out the council's approach to housing development and estate renewal. This included the development of infill sites where the council owns land that could be used to provide new house building.
- 5.2 A list of sites was approved as Phase 1 of the infill programme and included land at Anderton Court, Barnes Court parking area, Connaught Lodge garages, Ednham House garages, Fenton Road parking area, Whitbread Close parking area, land between 10 – 12 Muswell Hill Place and land adjacent to 82 Muswell Hill Place.
- 5.3 The council holds land for various statutory purposes in order to provide its functions. Such land is used only for the purpose of the function for which it was originally acquired until such time as the land is disposed of or "appropriated" for another purpose.
- 5.5 Appropriation is the statutory procedure to change the purpose for which land is held from one statutory purpose to another provided that the land is no longer required for the purpose for which it was held immediately before the appropriation.
- 5.6 The eight sites listed at Appendix 1a – 1h are held in the Housing Revenue Account and are provided either as parking areas, garages or open space. The council wishes to see these sites developed for housing. By appropriating the sites for planning purposes, the council will be able to secure their redevelopment and future



use by relying on the statutory provisions relating to the redevelopment and disposal of land held for planning purposes.

- 5.7 These parcels of land are held within the Housing Revenue Account for housing purposes. It is proposed that these parcels of land be appropriated for planning purposes under section 122 of the Local Government Act 1972 and subject to the powers provided by section 237 of the Town & Country Planning Act 1990. This will support the regeneration potential of these parcels of land and the effect of appropriating land in this way is that the rights of affected third parties (such as rights of light and rights of access) can be overridden to the extent that they become an entitlement to compensation rather than a right to obtain an injunction to prevent the scheme happening.
- 5.8 The use of appropriation power needs to be justified by a clear 'public interest' case that overrides the individual rights of potential affected third party owners and occupiers of nearby properties.
- 5.9 The justification for recommending the parcels of land be appropriated for planning purposes rests on the need for more affordable housing in the borough. The Council's Strategic Housing Market Assessment (SHMA) (May 2014) concludes that an additional 796 affordable housing units are required each year, over the 15 year plan period (2011 – 2026) to meet unmet need for housing in the borough; the GLA has set an annual housing target for the borough of 751 affordable housing units per year over the ten-year period 2015 – 2026. This need for additional affordable housing is reflected in the Council's Local Plan Strategic Policies and the Council's Housing Investment and Estate Renewal Strategy setting out the Council's approach to housing development and estate renewal.
- 5.10 While redevelopment schemes should always relate well to their surroundings and minimise impacts on nearby properties (and that will be thoroughly assessed as part of the design and planning application process), they also have a role in 'signalling the future'. With the potential provision of new mixed tenure homes, the redevelopment of these parcels of land are likely to bring substantial benefits for economic, social and environmental conditions in the area.
- 5.11 Given these significant benefits, it is considered that there is a clear and compelling case in the public interest to pursue redevelopment protected from possible restraint by injunction. Appropriating the land for planning purposes will achieve that while still enabling any interference with third party rights to be addressed via compensation.
- 5.12 In making this recommendation, regard has been had to the extent to which this may impact upon the human rights of owners and residents that may be affected and to balance those against the overall benefits to the community and the regeneration of the area that redevelopment will bring. Cabinet will need to be satisfied that interference with rights under Article 1 and Article 8 of the First Protocol to the European Convention on Human Rights is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of rights of



individuals and the public interest. Officers consider that the balance in this case weighs substantially in favour of the public interest and, accordingly, recommend that the parcels of land shown edged red on the plans at Appendix 1a to 1h are appropriated for planning purposes.

- 5.7 Following appropriation, any third party with rights that are infringed by the proposed developments will be eligible for compensation.

6. Comments of the AD Finance and financial implications

- 6.1 There is no direct cost to the appropriation of land, however by appropriating the land the Council will enable the New Build programme to proceed and thus reduce the risks of not being able to take advantage of external grant monies or Right to Buy receipts allocated to this programme with these funds potentially not being used and needing to be returned to Central Government.
- 6.2 There is allocated budget for the New Build programme within the Housing Revenue Account Capital Programme.

7. Comments of the AD Governance and legal implications

- 7.1 The Assistant Director of Corporate Governance has been consulted on the content of this report and makes the following comment
- 7.2 The eight sites are held for housing purposes but it is recommended that they be appropriated for planning purposes as set out in the report. Appropriation is akin to a disposal and as such the appropriation will require the consent of the Secretary of State under section 32 of the Housing Act 1985.
- 7.3 The Council can appropriate land that is no longer required for a purpose for another purpose under Section 122 of the Local Government Act 1972 and make use of the powers under section 237 of the Town & Country Planning Act 1990 to allow the Council to construct the development permitted by planning permission even where that development interferes with third party rights or breaches restrictions against the land.
- 7.4 The Council in appropriating the land under Section 122 for planning purposes needs to be satisfied that the land is no longer required for the purposes for which it is currently held (i.e. housing purposes) and that there is a compelling case in the public interest for doing so. Once appropriated, work carried out on that land pursuant to Section 237 of the Town & Country Planning Act is akin to compulsory acquisition and permits the carrying out of development if done in accordance with a planning permission notwithstanding that it involves interference with interests or rights to which the provision applies namely restrictive covenants and easements adversely affecting other land. This power extends to those deriving title from the Council. In effect it protects the development from restraint by injunction although compensation remains payable for the interference.



- 7.5 The Council when appropriating land for planning purposes needs to be satisfied that it will facilitate the carrying out of development, redevelopment or improvement on or in relation to land and that it is likely to contribute to the achievement of namely the promotion or improvement of the economic, social or environmental well-being of the whole part of its area and that there is a compelling case in the public interest for doing so.

8. Equalities and Community Cohesion Comments

- 8.1 A total of 30 new affordable homes will be built across these eight sites providing much needed accommodation for those in housing need, many of whom will be amongst the borough's most vulnerable residents. The homes will be built to the Lifetime Homes Standard and 10% will be provided with wheelchair access.
- 8.2 The sites identified in this report comprise a mix of existing garages and open space held within the HRA. Where garages are lost, users of these garages will have the opportunity of another garage from within the council's stock. Where other third party rights are affected (such as rights of light and rights of access), those parties will have an entitlement to compensation.

9. Head of Procurement Comments

- 9.1 Procurement comments are not applicable to this report.

10. Policy Implication

- 10.1 In facilitating the delivery of affordable housing, the proposals set out in this report support the delivery of the council's Housing Investment and Estate Renewal Strategy and are underpinned by the priorities in the Local Plan (Strategic Policies) and both the current and emerging corporate plan(s).

Local Plan (Strategic Policies)

- 10.2 Policy SP2 sets out the council's aim to provide homes to meet Haringey's housing needs and to make full use of Haringey's capacity for housing by maximising the supply of additional housing.

Corporate Plan 2013 – 2015

- 10.3 These proposals support the council's corporate plan priorities under the 'opportunities for all' outcome in Haringey's current Corporate Plan, to *ensure that everyone has a decent place to live* by increasing the supply of new homes including affordable housing.



Draft Corporate Plan 2015 – 2018

10.4 These proposals support priority 5 of the council's draft corporate plan to *create homes and communities where people choose to live and are able to thrive* to provide access to good quality and affordable housing and increase the supply of new homes by building more council owned homes.

11. Reasons for Decision

11.1 To support the implementation of the council's Housing Investment and Estate Renewal Strategy by enabling the development of new, council built, affordable housing in the borough.

12. Use of Appendices

Appendix 1a: Map showing Anderton Court, Alexandra Park Road, N22

Appendix 1b: Map showing Parking area, Barnes, Clarence Road, N22

Appendix 1c: Map showing Connaught Lodge garages, Connaught Road, N4

Appendix 1d: Map showing Edham House garages, Florence Road, N4

Appendix 1e: Map showing Parking area, Fenton Road, N17

Appendix 1f: Map showing Parking area, Whitbread Close, N17

Appendix 1g: Map showing Land between 10 – 12 Muswell Hill Place, N10

Appendix 1h: Map showing Land adjacent to 82 Muswell Hill Place, N10

13. Local Government (Access to Information) Act 1985

Haringey Council, Housing Investment and Estate Renewal Strategy, November 2013