

Report for: Cabinet 9th February 2016

Item number: 14

Title: The appropriation of land at the Olympia Trading Estate, Coburg Road London N22 for Planning Purposes

Report authorised by : Director for Regeneration Planning and Development

Lead Officer: Jon McGrath, Assistant Director Corporate Property and Major Projects

Ward(s) affected: Noel Park

**Report for Key/
Non Key Decision:** Key Decision

1. Describe the issue under consideration

1.1 The Olympia Trading Estate forms part of a development site in Clarendon Road and contracts have been exchanged to sell the site to the developer St. William Homes LLP.

1.2 St. William have requested that the Council appropriate the site for planning purposes. This would enable them to benefit from the protection afforded by Section 237 of the Town and Country Planning Act 1990 (as amended) (Section 237) when implementing the planning consent and any revisions thereof.

1.3 Section 237 is a legal provision that has the effect of converting the rights of a property owner (including rights to light) to an entitlement to compensation only. This means that a property owner may not injunct a development scheme and so prevent its implementation.

2. Cabinet Member Introduction

2.1 The development of the Clarendon Road site is a key regeneration project in Wood Green. It will provide a housing led mixed use development on a site which is a major Regeneration priority. The appropriation of the site for planning purposes is a common regeneration mechanism to ensure that development can progress on the site. Appropriating the land for planning purposes means that those affected by rights of light can receive fair and appropriate compensation. However, it removes the ability for injunctions to be brought and therefore safeguards the delivery of the regeneration scheme.

3. Recommendations

3.1 It is recommended that Cabinet agree to the following:-

- (i) To appropriate the Olympia Trading Estate (outlined red in the plan attached as Appendix A) for planning purposes pursuant to section 232 of the Town and Country Planning Act 1990 ("the Act"). This is on the basis that the appropriation (and subsequent disposal) will facilitate the carrying out of development/redevelopment or improvement on or in relation to the land and that the development/redevelopment or improvement will promote or improve the economic, social or environmental well being of the area.
- (ii) To resolve that the resolution under 3.1(i) and the disposal of the Olympia Trading Estate under Section 233 of the Act are intended to attract the application not only of Section 237 but also of any replacement whether Clause 137 of the Housing and Planning Bill (as enacted) or otherwise. This is to override any easements or rights which could adversely impact on the proposed development and/or redevelopment of the Olympia Trading Estate and the subsequent beneficial use.

4. Reasons for decision

4.1 The Council wishes to support and facilitate the delivery of a new Housing scheme at Clarendon Road as it will bring significant public benefits, act as a catalyst for wider regenerative change and will deliver the objectives for the Wood Green Area Action plan and Investment Framework.

4.2 If the Council were to not agree these recommendations, the proposed development scheme will be at risk of injunction and will be delayed and put at risk.

5. Alternative options considered

5.1 The alternative option to consider would be not to appropriate the site at the Olympia Trading Estate for planning purposes. This would put the site at risk of being injuncted and therefore put the development at risk and delay the building of the scheme.

6. Background information

6.1 The Clarendon Square development (including the Olympia Trading Estate) is a key regeneration site in Wood Green. Wood Green is identified as a major regeneration priority in the Corporate Plan 2015-2018, under Priority 4, Objective 5: 'Focus growth, by prioritising new homes and jobs in Wood Green and particularly in Tottenham, where need and opportunity are greatest, and by bringing some of the borough's key community assets into more active use'.

6.2 An Investment Framework (IF) and an Area Action Plan (AAP) for Wood Green town centre are being developed. These combined will provide a comprehensive spatial and economic plan and planning framework for the town centre, alongside an

assessment of the investment levels required to deliver major residential and commercial development, new public open spaces and improved connections over a 15-20 year period. This includes enabling a minimum of 4,600 new homes and 1,500 new jobs in Wood Green over the planned period to 2026.

6.3 The Olympia Trading Estate forms part of the Clarendon Square development proposal which is a key strategic Council regeneration area. The site is an opportunity to regenerate a large underused area and to provide housing led mixed use development and is covered by the Haringey Heartlands Development Framework adopted in April 2005.

6.4 The Olympia Trading Estate forms part of the Clarendon Road development site which was granted outline planning consent for a mixed residential and retail development scheme on 21st March 2012. The outline planning consent provides for approximately 1,000 residential units together with business and retail space and some community provision. St. William have appointed an architect and are working on a detailed proposal which will reflect the Wood Green Investment Framework and Area Action Plan currently being developed. The development will support the local infrastructure and green link proposals helping to support the wider regeneration of the area

Section 237

6.5 Section 237 operates by converting the right of an owner of an affected property from an injunctionable right into an entitlement to compensation. The underlying purpose of the section is to ensure that development is not prevented by third parties whilst at the same time ensuring that they are properly and fairly compensated. Compensation is assessed using compulsory purchase compensation principles based on the diminution of the value of the affected property as a result of the interference with the right.

6.6 The protection afforded by Section 237 will apply both to the Council, were it to undertake the development, and also to any party deriving title to the land from the Council. Therefore, when the Council disposes of the land to St. William the risk of any affected property owner, tenant or occupier seeking an injunction to prevent a scheme going ahead based on the infringement of a right to light (or any other right) will be removed.

6.7 St William will provide an indemnity to the Council in respect of any residual liability that may fall to the Council as a result of St William relying on Section 237 to override third party interests during the development.

7. Contribution to strategic outcomes

7.1 The recommendations in this report are related to a number of Council wide corporate policies and priorities and will help deliver the Council's priorities as set out in the Corporate Plan 2015-2018: building a stronger Haringey together and in the draft Housing Strategy. In particular, the low cost home ownership homes in this proposed development will support delivery of the Council's target for affordable housing in the Borough.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance and Procurement

8.1 There are no direct financial consequences for the Council from the appropriation for planning use which is the subject of this report. Any compensation which becomes payable as a result of the development will fall to be paid by the developer. The developer will in any case provide an indemnity to the Council for any residual liabilities in relation to their reliance on Section 237 of the Town and Country Planning Act 1990. The appropriation is a necessary step in order for the agreed disposal of the site to proceed.

8.2 The Corporate Procurement Unit notes the recommendations in this report and that there is no input from procurement required.

Legal

8.3 The Olympia Trading Estate is held for planning purposes however it is not clear as to the power used by the Council to acquire the land. It therefore cannot be certain that the acquisition falls with the definition contained within section 246 (1) (a) of the Act.

8.4 The Olympia Trading Estate is in Council ownership and for Section 237 to come into effect the Council must therefore appropriate the land for planning purposes. To do so the Council would need to be satisfied that the circumstances set out in Section 226 of the Act are met – in summary, that the appropriation of the land would facilitate the carrying out of development and that the development in question would contribute to the economic, social or environmental well-being of the area.

8.5 The Council has the power under section 232 of the Act to appropriate land acquired for planning purposes.

8.6 As stated in this report the provisions Section 237 will only apply to the development if it is done in accordance with planning permission however this will not affect any rights belonging to statutory undertakers.

8.7 The Cabinet is asked to note that the Housing and Planning Bill is currently progressing through Parliament. This contains Clause 137 which will (if enacted) lead to the repeal of Section 237 and its replacement with a similar provision making available Section 237 powers to a wider number of public bodies. It is anticipated that transitional provisions will also be enacted to “save” any resolutions made in order to give effect to Section 237. Notwithstanding this, it is felt that the Council should resolve that its resolutions under Section 122 of the Local Government Act 1972 is intended to attract the application not only of Section 237 but also any replacement whether Clause 137 or otherwise.

8.8 The Council will retain residual liability under section 237 (5) in respect of any compensation payable by the developer and as result should only appropriate if a full indemnity is entered into with the developer.

Equality

8.9 The Council is subject to the Public Sector Equalities Duty (“PSED”) set out in section 149 of the Equalities Act 2010 which obliges the Council in performing its functions “to have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it”

8.10 The appropriation of the land at the Olympia Trading Estate has no impact on employees of the Council. The existing sub tenants will be assisted in their relocation by the developer St.William as part of a Section 106 agreement.

8.11 The Olympia Trading Estate will form part of the Clarendon Square development to be undertaken by St.William. There will be many positive impacts on Wood Green by the development through the creation of employment, public space and affordable housing. These will have a positive impact on Wood Green’s diverse communities and promote community cohesion (public space). The broader Wood Green regeneration programme is being conducted through close consultation with residents and will feed into the development proposal.

9. Use of Appendices

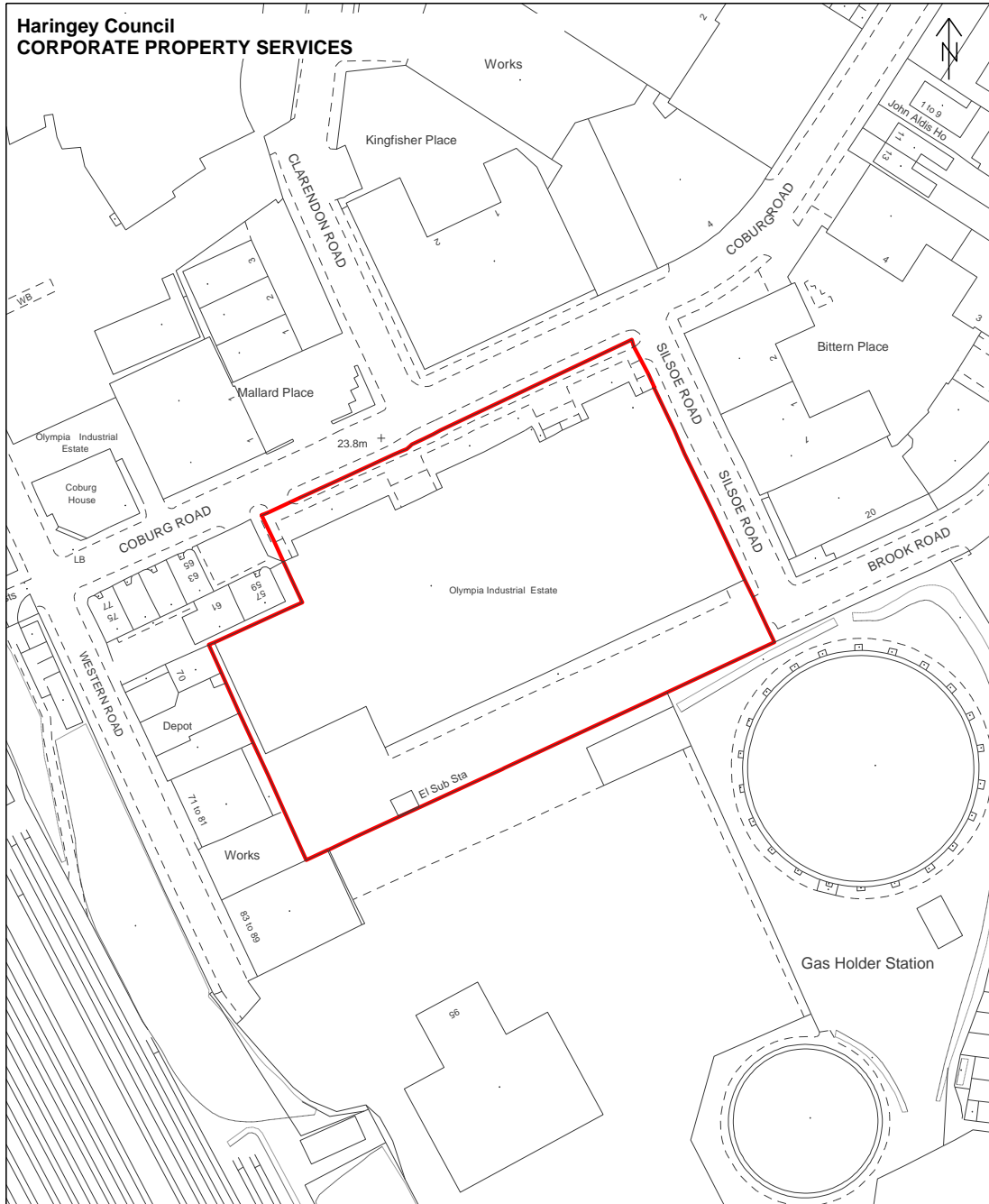
9.1 Appendix A – Site Plan of Olympia Trading Estate

10. Local Government (Access to Information) Act 1985

11.

10.1 Background papers include Cabinet reports dated 13th March 2008 , 16th September 2014 and 10th November 2015.

Appendix A- Site Plan of the Olympia Trading Estate



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Olympia Trading Estate
Coburg Road
Wood Green
LONDON N22

CPM No.

Overlay : Heartlands - Head Leases

Plan produced by Kevin Lincoln on 18/02/2008

Site Area (hectares) : 0.841

Scale 1:1250

Drawing No. BVES A4 1080b

