

**Report for:** Cabinet 14<sup>th</sup> June 2016

**Item number:** 11

**Title:** Seven Sisters Regeneration - Apex House (appropriation of land for planning purposes)

**Report authorised by :** Lyn Garner, Director for Regeneration Planning and Development

**Lead Officer:** Suzanne Johnson, Area Manager (Tottenham Green, Bruce Grove & Seven Sisters)

**Ward(s) affected:** Tottenham Green, Seven Sisters

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

## **1. Describe the issue under consideration**

- 1.1 On the 15<sup>th</sup> July 2014, Cabinet agreed to appropriate the land for the Apex House site, prior to disposal, for planning purposes pursuant to Section 122 of the Local Government Act 1972 and subject to the powers provided by Section 237 of the Town and Country Planning Act 1990 ("Section 237"). This was agreed in order to support the redevelopment & regeneration potential of the site, as part of the Tottenham Strategic Regeneration Framework, approved by Cabinet in March 2014.
- 1.2 Section 237 is a legal provision that has the effect of overriding and 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 prevent its implementation.
- 1.3 Section 237 has now been amended by the Housing and Planning Act 2016 , which received Royal Assent on the 12<sup>th</sup> May 2016. The new provision is contained in Section 203 of the Housing and Planning Act which will lead to the repeal of Section 237 and its replacement by Section 203. Section 203 is a similar provision making such powers to available to a wider number of public bodies.
- 1.4 This report seeks approval to reaffirm tthe Cabinet's original decision of 15 July 2014 to appropriate the land at Apex House site for planning purposes is intended to attract not only the application of Section 237, but also its replacement under Section 203 of the Housing and Planning Act 2016.

## **2. Cabinet Member Introduction**

- 2.1 Seven Sisters forms a key part of the Tottenham Regeneration Programme. At the area's heart, the Apex House site, along with the Wards Corner site,

provides the opportunity for major new investment to improve the area and act as a catalyst for further transformational investment in surrounding sites.

- 2.2 This Report is presented solely to ensure that decisions previously taken by Cabinet are upheld in light of the Housing and Planning Bill becoming an Act of Parliament (law). Members are asked to support the recommendation in this Report to safeguard the progression of the Apex House redevelopment against any legal impediments that might be caused by the replacement of this clause with a similar provision.

### **3. Recommendations**

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

- (i) That its resolution made at the 15<sup>th</sup> July 2014 Cabinet meeting (Seven Sisters Regeneration, Tottenham – Apex House & Wards Corner Report) to approve the appropriation of the Apex House site for planning purposes, pursuant to Section 122 Local Government Act 1972 and subject to the powers provided by Section 237 Town and Country Planning Act 1990, is intended to attract the application not only of Section 237, but also the replacement provisions contained in Section 203 of the Housing and Planning Act 2016.

### **4. Reasons for decision**

- 4.1 The reason for the recommendation is that the Housing and Planning Bill has been progressing through Parliament and received Royal Assent on the 12<sup>th</sup> May 2016. The new Act contains Section 203 and will repeal Section 237.
- 4.2 The new section also applies “where—
- (a) there is planning consent for the building or maintenance work,
  - (b) the work is carried out on other qualifying land,
  - (c) the qualifying authority in relation to the land could acquire the land compulsorily for the purposes of the building or maintenance work, and
  - (d) the building or maintenance work is for purposes related to the purposes for which the land was vested in, or acquired or appropriated by, the qualifying authority in relation to the land” and therefore should capture appropriation of land that occurred prior to coming into force of the new Act.
- 4.3 It is felt however that the Council should in any event resolve that its resolutions under Sections 122 of the Local Government Act 1972 to appropriate and to dispose under Section 233 of the Town and Country Planning Act 1990 are intended to attract the application not only of Section 237 but also its replacement under Section 203. Similar decisions have been made in other recent cases in Haringey, for example in the case of Tottenham Hotspurs Stadium redevelopment and Olympia Trading Estate.

### **5. Alternative options considered**

- 5.1 The alternative option to consider would be not to resolve that the Cabinet’s original decision of the 15<sup>th</sup> July 2014 to appropriate the land for the Apex House site is intended to attract the application not only of Section 237, but also

the replacement provision under Section 203 of the Housing and Planning Act 2016 .

- 5.2 This could lead to uncertainty over the Council's intentions, given the changes to the legislation and it has been advised by legal counsel in other similar cases in Haringey to clarify the Council's position on the issue. There would be an increased risk of challenge through judicial review process if the recommended resolution is not made, on the basis that the Cabinet's intention on the 15<sup>th</sup> July 2014 was that only Section 237 should apply and this has now been repealed.

## **6. Background information**

- 6.1 The Tottenham Strategic Regeneration Framework, approved by Cabinet in March 2014, confirms that Seven Sisters is a key part of the regeneration vision. Apex House (alongside Wards Corner) are key sites and their redevelopment will play a major part in transforming this important part of Tottenham with new homes, new retail space, new jobs and an improved public realm.
- 6.2 Cabinet on the 15<sup>th</sup> July 2014 agreed to appropriate the site, prior to disposal, for planning purposes pursuant to Section 122 of the Local Government Act 1972 and subject to the powers provided by Section 237 Town and Country Planning Act 1990. At the same Cabinet meeting a number of other key decisions were made in order secure the necessary investment in the Seven Sisters area to realise the regeneration potential, including to dispose of a long lease of the Council's Apex House site to Grainger Seven Sisters Ltd ("Grainger") (as the developer of the adjacent Wards Corner).
- 6.3 Since this Cabinet decision was made, the Council has entered into a conditional contract on the 20<sup>th</sup> November 2014 with Grainger for the disposal of Apex House site by way of a long leasehold interest.
- 6.4 Grainger have subsequently been granted planning permission on the 9<sup>th</sup> May 2016 for the redevelopment of the Apex House site (ref. HGY/2015/2915) which proposes a mixed-use building with 163 residential units (104 Private units and 59 Affordable units) and a flexible commercial space on the ground floor, with improvements to the public realm. This is subject to a six week period where a challenge can be made to the planning decision through a judicial review.

## **7. Contribution to strategic outcomes**

- 7.1 The recommendation in this report is key to securing the redevelopment of the Apex House site and therefore contributing to the regeneration of Seven Sisters and Tottenham. This will help improve the economic, social and environmental well being of the area by delivering a number of the Council's priorities as set out in the Corporate Plan including Priority 4: Drive growth and employment from which everyone can benefit; and Priority 5: Create homes and communities where people choose to live and are able to thrive. The Apex House scheme will deliver a significant number of new homes, with 39% of these being affordable homes. It will also deliver new jobs through the new

commercial space proposed and will improve the public space around the development.

**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 or Section 203 of the Housing and Planning Act 2016. 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 Apex House site is held for planning purposes following its appropriation on 15 July 2014. The Cabinet is asked to note that there will be a change of legislation involving Section 237 of the Town and Country Planning Act 1990. The Housing and Planning Act 2016 received Royal Assent on 12 May 2016. This Act will repeal section 237 and replace it with the provisions contained within Section 203. The new section also applies to land that was appropriated for planning purposes prior to the coming into force of the new Act. This states that “where:
- (a) there is planning consent for the building or maintenance work,
  - (b) the work is carried out on other qualifying land,
  - (c) the qualifying authority in relation to the land could acquire the land compulsorily for the purposes of the building or maintenance work, and
  - (d) the building or maintenance work is for purposes related to the purposes for which the land was vested in, or acquired or appropriated by, the qualifying authority in relation to the land.”

This would in effect also apply to decisions made and agreements for sale entered into prior to the coming into force of the legislation. Notwithstanding this, it is felt that the Council should resolve that its resolutions under Section 122 of the Local Government Act 1972 and the proposed subsequent disposal of the Apex Housing site is intended to attract the application not only of Section 237 but also the replacement provisions contained within Section 203 of the Housing and Planning Act 2016.

- 8.4 The Council will (as it does under section 237 (5) of the Town and Country Planning Act 1990) retain residual liability under Section 204 of the Housing and Planning Act 2016 for any compensation payable by the developer.

## Equality

- 8.5 The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:
- Tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
  - advance equality of opportunity between people who share those protected characteristics and people who do not;
  - foster good relations between people who share those characteristics and people who do not
- 8.6 This report is asking members, in light of the potential replacement of Section 237 powers in the Housing and Planning Act 2016, to reaffirm the Cabinet's resolution on the 15<sup>th</sup> July 2014 concerning the development of the Apex House site. At that time the Cabinet decided to appropriate the Apex House site for planning purposes and enter into a conditional contract to dispose of the long lease to a subsidiary owned by Grainger plc (developer of the adjacent Wards Corner site) subject to planning permission being granted.
- 8.7 As part of the planning application process for the Apex House site, Grainger were required to prepare and submit a full Equality Impact Assessment, as well as a Statement of Community Involvement of consultation activities with residents and local businesses. The Council's Planning Committee on the 9<sup>th</sup> May 2016 considered this equality impact assessment and statement of community involvement as part of their decision to approve the planning application for the Apex House site.
- 8.8 The equality impact assessment commits the developer to a range of actions concerning the Apex House site that should help improve outcomes for different groups of residents and business owners in the Tottenham and Seven Sisters area, including:
- the provision of new housing including at least 59 dwellings at affordable rent
  - directly generating 220 temporary construction jobs over 2 years, with Grainger entering a local labour agreement and links with the College of North East London to promote these opportunities among young people and residents in the borough
  - agreement that the current market stall holders located at Wards Corner will all be given the option to relocate in new commercial space made available on the Apex House site. Market stall holders should continue to be represented in ongoing discussions over the temporary and eventual site of the Seven Sisters market. This will benefit the traders who are predominantly from the Latin American and BME community.

- full disability access for the new Apex House site, including step free access, lifts and disability parking places
- improved public realm which is fully accessible and a development which is designed and managed to reduce crime, including CCTV provision.

## **9. Use of Appendices**

Appendix 1 - Apex House site plan

## **10. Local Government (Access to Information) Act 1985**

- a. Background documents: Seven Sisters Regeneration, Tottenham – Apex House & Wards Corner Cabinet Report, 15th July 2014 (weblink below)

<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MIId=6971&Ver=4>