



**Haringey** Council

Report for:	Cabinet 10 July 2012	Item Number:	
Title:	Site A Lymington Avenue N22 - Appropriation of Land to Planning Use and Overriding of Private Rights		
Report Authorised by:	Lyn Garner - Director of Place and Sustainability		
Lead Officer:	Dinesh Kotecha – Head of Corporate Property Tel: 020 8489 2101 e-mail: <a href="mailto:dinesh.kotecha@haringey.gov.uk">dinesh.kotecha@haringey.gov.uk</a>		
Ward(s) affected:	Noel Park	Report for:	Key Decision

**1. Describe the issue under consideration**

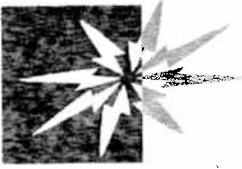
1.1. The reports seeks authority for Site A Lymington Avenue Wood Green N22 (the Site) comprising Nos 1-6 Noel Park Road N22 and Nos 11-25 Lymington Avenue N22 to be appropriated for planning purposes to enable the site to be redeveloped in accordance with the Council's regeneration objectives for the area as contained in the Sites at Lymington Avenue N22 Planning Brief adopted in September 2003 (updated in December 2010) and the Wood Green Town Centre Supplementary Planning Document adopted in October 2008.

**2. Cabinet Member introduction**

2.1. Appropriation of the site for planning purposes will ensure the redevelopment of the site is not frustrated ensuring the development of new commercial units and housing both private and affordable in accordance with the Council's regeneration objectives for the area.

**3. Recommendations**

3.1. To approve the appropriation of Site A Lymington Avenue Wood Green N22 (the Site) for planning purposes under S.122 of the Local Government Act 1972 as set out in the appended Plan No 0342u .



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#### 4. Other options considered

- 4.1. **Not to appropriate** - If the appropriation is not carried out there is a risk that the proposed re-development scheme may be frustrated by third party rights, which would in turn frustrate the Council's objectives, to see the site redeveloped in accordance with its regeneration objectives.

#### 5. Background information

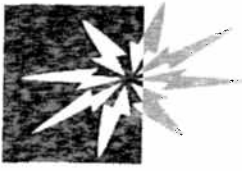
5.1. The Cabinet of 14 September 2010 approved the following:-

- a). That the Head of Corporate Property Services be authorised to dispose of Site A Lymington Avenue, Wood Green N22 on terms to be agreed in consultation with the Cabinet Member for Finance and Sustainability subject to the conditions set out in paragraphs 4.1.1 – 4.1.3 of the exempt Appendix to the interleaved report.

5.2. A planning application has now been submitted by Sanctuary Housing Association to redevelop the site which has been validated by the Council's Planning Service.

#### **Proposals- Appropriation under section 122 of the Local Government Act 1972**

- 5.3. The Council holds property for various statutory purposes in order to provide its various 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.
- 5.4. Appropriation is the statutory procedure to change the purpose for which land is held from one statutory purpose to another provided that that land is no longer required for the purpose for which it was held immediately before the appropriation.
- 5.5. Site A Lymington Avenue forms part of a larger site acquisition by the Council in 1970 using both planning and housing powers. However, there was no delineation showing what parts of the land were acquired using either power.
- 5.6. Part of the Site has been used for housing purposes, which would suggest that it is held for Housing purposes with the remainder forming part of the Council's commercial portfolio, which would suggest it is held for General Fund purposes. Regardless of how it is held, the Council has declared the site surplus to its requirements and wishes to see it redeveloped. By appropriating the Site for planning purposes, the Council will be able to secure its redevelopment and future use by relying on the statutory provisions relating to the redevelopment and disposal of land held for planning purposes.



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**6. Comments of the Chief Finance Officer and financial implications**

- 6.1. The costs of preparing this report have been met within existing budgets and any capital receipt from disposal can be used to support the Council's wider priorities. It is possible that the Council may be liable for compensation if an aggrieved party comes forward but this risk is mitigated by the fact that the Housing Association will indemnify the Council against these costs.

**7. Head of Legal Services and legal implications**

- 7.1. Under section 122 of the Local Government Act 1972 the Council has power to appropriate for any purpose land held by it and which it is no longer required for the purpose that it was originally held. To appropriate land it must first be declared surplus to the requirement of the original purpose and then appropriated for the other purpose. It is important that the internal paper process of appropriation is carried out.

**Overriding Third Party Rights**

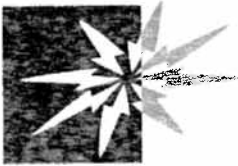
- 7.2. An investigation of title has been carried for this site revealing the existence of third party rights and the buyer has requested that the sale contract be made subject to the Council appropriating the land for planning purposes to guard against any those third party rights/reservations/restrictive covenants impeding the future development of this land. Once appropriated the Council will be able to rely on section 237 of the Town and Country Planning Act 1990. Under this section the erection, construction or carrying out, or maintenance of any building work on land or use of any land which has been acquired or appropriated by a local authority for planning purposes (whether done by the local authority or by a person deriving title under them) is authorised if it is done in accordance with planning permission, even if it.

- (a) interferes with an interest or right or
- (b) breaches a restriction as to the user of land.

- 7.3. The objective is that if the work is done in accordance with planning permission, and subject to the payment of compensation, a local authority is permitted to develop its land in a manner in which it, acting bona fide, considers will best serve the public interest. To that end it is recognised that a local authority is permitted to interfere with third party rights. Compensation is payable to third parties affected.
- 7.4. It should be noted that the use of this power does not extinguish the third party rights but merely gives the Council the power to override them.

**Compensation**

- 7.5. Compensation is payable and the section sets out how this is to be assessed and to whom. Compensation is payable by the person carrying out the development but the Council retains the residual liability.



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- 7.6. Under the sale agreement, the Sanctuary Housing Association has agreed to indemnify the Council from any residual liability in the event that compensation is not paid.

## **8. Equalities and Community Cohesion Comments**

- 8.1. The Council's objective is for the Site to be redeveloped which will see the development of circa 65 new homes (private and affordable) and new commercial units to support social and economic regeneration and therefore will contribute to the development of a sustainable community and provide opportunities for home ownership across the borough.
- 8.2. The capital receipts generated from the disposals will also support Council objectives benefiting the wider community

## **9. Policy Implication**

- 9.1. None.

## **10. Use of Appendices**

- 10.1. Appendix 1 – OS plan Site A Lymington Avenue London N22 which is to be appropriated

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

### **11.1. Background papers**

The following reports are exempt from the requirement to be made public.

Cabinet Report 14 September 2010– Appendix 2 (exempt)

The following reports are publicly available.

Cabinet Report 14 September 2010

Green Town Centre Supplementary Planning Document adopted in October 2008

Planning Brief adopted in September 2003 (updated in December 2010)



**Haringey Council**



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**Site A Lyminster Avenue  
Wood Green  
LONDON  
N22 6JB**

**Verged red - disposal  
(Portacabins 11-25, land rear of & 1-6 Noel Park Road  
(demountable housing))**

**FREEHOLD DISPOSAL**

CPM No. 0858 & 0792

Overlay : Property Terrier

Plan produced by Janice Dabinett on 21/10/2010

Deed document no. : 2292, 6182

LR title no. : freehold NGL202041 (part), NGL255861 (part)

Site Area (hectares) : 0.3507 ha

Scale 1:1250

Drawing No. BVES A4 0342u

