



Democratic Services

Location: Phase II
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**To: COUNCILLOR IAN EDWARDS
THE LEADER OF THE COUNCIL**

**COUNCILLOR JONATHAN BIANCO
CABINET MEMBER FOR PROPERTY, HIGHWAYS
& TRANSPORT**

c.c. All Members of the Property, Highways &
Transport Select Committee
c.c. Julia Thompson – Place Directorate
c.c. Perry Scott – Corporate Director of Place

Date: 27 January 2023

Non-Key Decision request

Form D

APPROPRIATION OF LAND AND CONSENT TO DISPOSE OF GREEN BELT LAND AT HILLINGDON COURT PARK PAVILION PARKWAY HILLINGDON

Dear Cabinet Member

Attached is a report requesting that a decision be made by you as an individual Cabinet Member. Democratic Services confirm that this is not a key decision, as such, the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 notice period does not apply.

You should take a decision **on or after Monday 6 February 2023** in order to meet Constitutional requirements about publication of decisions that are to be made. You may wish to discuss the report with the Corporate Director before it is made. Please indicate your decision on the duplicate memo supplied, and return it to me when you have made your decision. I will then arrange for the formal notice of decision to be published.

Anisha Teji
Democratic Services Officer

Title of Report: Appropriation Of Land And Consent To Dispose Of Green Belt Land At Hillingdon Court Park Pavilion Parkway Hillingdon

Decision made:

Reasons for your decision: (e.g. as stated in report)

Alternatives considered and rejected: (e.g. as stated in report)

Signed Date.....

Leader of the Council/ Cabinet Member for Property, Highways & Transport

APPROPRIATION OF LAND AND CONSENT TO DISPOSE OF GREEN BELT LAND AT HILLINGDON COURT PARK PAVILION PARKWAY HILLINGDON

Cabinet Member(s)	Cllr Ian Edwards Cllr Jonathan Bianco
Cabinet Portfolio(s)	The Leader of the Council Cabinet Member for Property Highways & Transport
Officer Contact(s)	Julia Thompson – Place Directorate
Papers with report	None

HEADLINES

Summary	This reports seeks final approval to appropriate the land that is held as open space to planning purposes after consideration of the objections and responses received. Also to proceed to apply to the Secretary of State for release of land in the Green Belt.
Putting our Residents First Delivering on the Council Strategy 2022-2026 Putting our Residents First	<p>This report supports our ambition for residents / the Council of: An efficient, well-run, digital-enabled council working with partners to deliver services to improve the lives of all our residents</p> <p>This report supports our commitments to residents of: A Green and Sustainable Borough</p> <p>This report supports the following Council objectives of: <i>Our Built Environment and Strong financial management.</i></p>
Financial Cost	There are no direct financial costs. The appropriation will enable the site to be disposed realising a capital receipt to the General Fund.
Relevant Select Committee	Property, Highways and Transport Select Committee
Relevant Ward(s)	Hillingdon East

RECOMMENDATIONS

That the Leader of the Council and the Cabinet Member for Property, Highway and Transport, in consultation with the Corporate Director of Place agrees to:

- 1. Appropriate the open space land at the site at Hillingdon Court Park Pavillion, Parkway, Hillingdon (the Land). The Land to be appropriated from open space to planning purposes under section 122 of The Local Government Act 1972.**
- 2. Agrees to proceed to apply to the Secretary of State for Levelling Up Housing and Communities for consent to dispose of part of the Land that is held as Green Belt, the land is shown for identification purposes only coloured green on the site plan in Appendix A.**
- 3. Authorises the method of disposal as a freehold sale rather than leasehold with an option to sell the freehold for £1**

Reasons for recommendations

Following the receipt of objections and responses, the Corporate Director of Place is now recommending the matter set out in this report to the Leader of the Council and Cabinet Member for Property, Highways and Transport and to make a formal decision on.

Although part of the Land on the west of the site was acquired for cricket, football or other games and recreation, it should be noted that the site was previously developed for a Pavilion with hardstanding and car parking. The Land had previously been leased for use as a sports pavilion, but the building has been unused for several years following the surrender of the lease by the previous tenant. The property is currently vacant, and it is proposed to appropriate the Land to planning purposes and for the Land to be redeveloped for housing purposes.

Alternative options considered / risk management

The Land could be cleared and returned for use as recreational open space, but this course of action is not considered appropriate because there is sufficient open space within Hillingdon Court Park. Hillingdon Court Park (The Park) which comprises approximately 221,589 sq. m of open space. The Park is used for general recreation, football, and other recreational games it has four public tennis courts and a bowls club together with car parking.

Previously the Land was developed for a Pavilion with hardstanding and car parking. The Land had been leased for use as a sports pavilion, but the building was unused for several years following the surrender of the lease by the previous tenant and the site was then boarded. The building has subsequently fallen into disrepair and is not in a condition where it can be let or repaired. Also, the Hillingdon Court Park Pavilion and adjacent land have not been publicly accessible for 24 years.

In addition, the economic, social, and environmental benefits that would be delivered by the proposed development of the Land would not be delivered if the Land were returned to public open space. These benefits outweigh any detrimental impacts arising from the loss of the section

of Land held for cricket, football or other games and recreation as open space. If the Land is to be developed, then there is no alternative but to appropriate the Land to planning purposes.

Democratic compliance / previous authority

The principle of development of the Land was approved by Cabinet on 24 September 2020. On 27 May 2021, The Leader of the Council, following consultation with the Cabinet Member for Property and Infrastructure, agreed that public notice be given regarding the Council's intention to appropriate the land to planning purposes and to:

- 1) Authorise officers to give public notice of the Council's intention to appropriate the land from public open space to planning purposes pursuant to section 122 of the Local Government Act 1972 as amended by the Local Government Planning and Land Act 1980 section 118 schedule 23.
- 2) Delegated authority for the Leader of the Council and Cabinet Member for Property and Infrastructure, in consultation with the Corporate Director of Infrastructure, Transport & Building Services to consider any objections to the proposed appropriation decided whether the land should be appropriated for planning purposes and to make all necessary decisions to give effect to the above recommendation and any other decisions which are required in relation to the land.

Following the Cabinet decision, the proposed appropriation has been advertised in the Uxbridge Gazette on two consecutive weeks on 1 and 8 December 2021. The proposed intention to dispose of part of the Green Belt land was also advertised in the Uxbridge Gazette on 1 December 2021.

Select Committee comments

None at this stage.

3. INFORMATION

Supporting Information

Appropriation is a statutory process that allows the Council following consultation to change the purpose for which it holds the property in its ownership from one purpose to another. The Council may only appropriate the Land if firstly, it belongs to the Council, secondly, the land is no longer required for open space and thirdly, being appropriated for any other purpose for which it is authorised by statute to acquire land

The Council owns the freehold interest in the Land at Hillingdon Court Park. The land on the west of the site-coloured green on the plan at Appendix A was originally acquired for cricket, football or other games and recreation, believed to be acquired under the statutory powers of the Public Health Act 1925. The Land formed part of the land known as Hillingdon Court Estate, then acquired for recreation purposes and public open space.

Previously the site was developed for a Pavilion with hardstanding and car parking, the land had been leased for use as a sports pavilion, but the building had been unused for several years following the surrender of the lease by the previous tenant and the site was then boarded. The building has subsequently fallen into disrepair and is not in a condition where it can be let or repaired. The land is covered with hard standing areas which are now becoming overgrown and is not useable for public use due to trip hazards. The land is not formally designated as open space in the Local Plan; however, the land is still held by the Council for cricket, football or other games and recreation. Open Space is defined under section 336 (1) Town and Country Planning Act 1990 as “any land laid out as a public garden or used for the purpose of public recreation.

The Council must only propose to appropriate land for planning purposes if it has the intention to see the land used for development which promotes or improves the economic, social, or environmental wellbeing of the area and believes that appropriation is needed to facilitate these aims. In this case, the Council does intend to see the Land used for such development and the recommendation is that the land be appropriated to secure the development of housing.

On the 24 September 2020 Cabinet declared the Hillingdon Court Park pavilion site surplus to requirements and authorised the sale of the site with planning consent for residential development.

The Council in its capacity as landowner has obtained Planning Permission for the development of one house on the land which is in a residential area. The Planning Permission site is shown edged red on the plan at Appendix A. The merits of the proposal were considered in the report to the Planning and Development Committee which noted:

“The proposal constitutes redevelopment of previously developed land. The proposed redevelopment of the site into a 2-storey residential unit would significantly reduce the footprint, site coverage, bulk, and scale of the existing built form, reducing the built-up area of the site. As such the development would not have a greater impact on the openness of the Green Belt than the existing development and would therefore not be inappropriate in the Green Belt. Comparing the impact on the Green Belt of the existing authorised use with the proposed change of use for residential purposes, the impact in terms of activity is comparable. In terms of the loss of a community facility, the applicant has demonstrated that the specific use is no longer required on site and the redevelopment of the site would secure a public benefit.”

The process to appropriate open space is under section 122 (2a) of the Local Government Act 1972. The Council subsequently placed notice in the in the Uxbridge Gazette on 1 and 8th December 2021, respectively. Any objectors had until 7 January 2022 to lodge their objections.

Part of the land on the west of the site is in the Green Belt and pursuant to the section 5 of the Green Belt Act 1938 and pursuant to The Green Belt Act, The Council placed notice in the Uxbridge Gazette on 1 December 2021. Any objectors had until 7 January 2022 to lodge their objections.

Plans identifying the Land to be appropriated and the Green Belt Land were made available and written representations and objections were to be received by 7 January 2022.

In addition, further information and a consultation regarding the proposed appropriation was put on the public website on the 16 December 2021 together with plans of the Land and the closing date for responses was 7 January 2022.

Title and Covenants

The Council owns the freehold interest in the Land at Hillingdon Court Park

The report on title established that the Council own the freehold interest in the land which is registered at the Land Registry under two freehold titles number AGL198287 and number MX102073. Title AGL198287 contains a covenant to observe restrictive covenants in a conveyance dated 2 November 1926. This title also provides that the site is affected by an agreement dated 1 August 1928 between (1) The County Council of the Administrative County of Middlesex and (2) The Uxbridge Urban District Council and The Uxbridge Rural District Council which provides that the Hillingdon Court Recreation Ground was to be laid out as public open space and thereafter maintained as such.

As the land to be sold is included within the land affected by the 1928 agreement, the Council will have to obtain a release of the pavilion site from this agreement. Legal Services recommend that this is done by appropriating the Land.

The second title, MX102073 also includes restrictive covenants which affect the pavilion site contained in a conveyance dated 10 December 1932. Legal Services recommend that the Council acquires a restrictive covenant indemnity policy as cover for the restrictive covenants affecting the pavilion site.

Representations/Objections

Representations and objections were received in response to the public notices and the website consultation.

Two objections were received relating to the appropriation one objection stated

“The council’s failure to invest in facilities so as to leave them derelict does not then give the Council leave to declare the no longer required for the original purpose of leisure. When facilities are removed, the remaining space is forever diminished. The reality, is that the land to be appropriated, if made into additional parking for Court Park, would greatly increase access to the park lands.

Over time, we will only have more people. And, if Hillingdon continues, we may not have much for parks. These proposal are the sort that should have a parent embarrassed before their children for it is their future betrayed because politicians do not have the courage to face funding through taxation and will instead resort to park grabs to subsidise the budget.”

However, as stated above on the Hillingdon Court Park Pavilion Land the Council has obtained planning permission for the development of one house and the planning application was subject to the normal planning consultation process.

No objections were received for the Green Belt land.

It is requested that the Leader of the Council and Cabinet Member for Property, Highways and Transport in consultation with the Corporate Director of Place formally consider the responses and decide whether the proposed appropriation of the Land to planning purposes should be authorised. In addition to decide if the Council should proceed to apply to the Secretary of State for Levelling Up Housing and Communities for consent to dispose of part of the Land that is held as Green Belt.

Equalities Impact Assessment

Due regard has been given to the Council's Equalities Duties with respect to general duties arising under the Equality Act 2010. There is no evidence to suggest that the appropriation of the Land will have a disproportionate adverse impact.

Financial Implications

As noted in the report, Cabinet has previously approved the sale of the Hillingdon Court Park pavilion site with planning consent for residential development, which has been obtained. The appropriation of the open space land for planning purposes will secure the site for housing development, and enable sale to a developer, thereby realising a capital receipt to the General Fund. There are no direct costs arising from the appropriation.

RESIDENT BENEFIT & CONSULTATION

The benefit or impact upon Hillingdon residents, service users and communities?

The appropriation of the Land will result in the land being held for planning purposes. A final decision will be made regarding the appropriation of the Land to planning purposes.

This will facilitate the development and sale of the Land which will then enable the proposed residential development.

Consultation carried out or required

The Council has advertised its intention to appropriate the Land in a local newspaper for two consecutive weeks and placed on the Council web site. In addition, public consultation has taken place through the planning process.

CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance has reviewed this report and financial implications above, noting there are no direct costs associated with approving these recommendations. However, it is anticipated that

agreeing these recommendations will lead to the disposal of the site, with the expected proceeds contributing towards the Council's Capital Receipts target.

Legal

As stated in the body of this report, the Land was declared surplus to requirements on 24 September 2020.

To appropriate the land from public open space to planning, the Council is required to ensure that the provisions of Section 123 of the Local Government Act 1972 are met and that the land is no longer required for the purposes for which it was held immediately before appropriation i.e., public open space.

The Council is also required to be satisfied that the land should be appropriated such that it becomes held for planning purposes by applying the tests set out in Section 226(1) and (1A) of the Town and Country Planning Act 1990.

It is clear from the body of this report that the above considerations have been made and that the relevant Council Officers are satisfied there is no need for the land to be used as public open space and that in weighing up competing needs, the balance fell in favour of appropriation.

Pursuant to Section 122 (2A) of the 1972 Act the Council advertised its intention to appropriate the land in a local newspaper for two consecutive weeks on 1st and 8th December 2021 and thereafter considered the consultation responses received.

Pursuant to the Section 5 of the Green Belt Act 1938, the Council advertised its intention to appropriate the land on 1 December 2021 in a local newspaper, no objections were received.

Provided the Council is satisfied that the consultation responses received have been fully and satisfactorily considered, the next step will be for an application to be made to the Secretary of State for release of the relevant parts of the land from being part of the green belt area.

Provided the abovementioned release is received and the restrictive covenants referred to in the body of this report are dealt with as suggested above then Legal Services confirm there are no legal impediments in agreeing the recommendations.

Infrastructure / Asset Management

This report has been authored by Property and Estates and Infrastructure / Asset Management comments are included within the report.

Comments from other relevant service areas

Not applicable .

BACKGROUND PAPERS

NIL.

TITLE OF ANY APPENDICES

Appendix A: Appropriation and Green Belt Land Hillingdon Court Park

