

# APPROPRIATION OF LAND AT HILLINGDON COURT PARK, PARKWAY, HILLINGDON

<b>Cabinet Member(s)</b>	Councillor Jonathan Bianco
<b>Cabinet Portfolio(s)</b>	Cabinet Member for Property & Infrastructure
<b>Officer Contact(s)</b>	Mike Paterson, Residents Services
<b>Papers with report</b>	Appendix 1 - Site Plan

## HEADLINES

<b>Summary</b>	<p>This report seeks Cabinet authority to begin the procedure for the appropriation of 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.</p> <p>The report also seeks to delegate authority to the Leader of the Council and Cabinet Member for Property &amp; Infrastructure, in consultation with the Corporate Director of Infrastructure, Transport and Building Services, to consider any consultation responses to the proposed appropriation; decide whether the land should be appropriated for planning purposes and to make all necessary decisions to give effect to the recommendations and any other decisions which are required in relation to the land.</p>
<b>Putting our Residents First</b>	This report supports the following Council objectives of: <i>Our Built Environment and Strong financial management.</i>
<b>Financial Cost</b>	Advertising Costs of £356.
<b>Relevant Policy Overview Committee</b>	Corporate Services, Commerce & Communities Policy Overview Committee
<b>Relevant Ward(s)</b>	Hillingdon East

## RECOMMENDATIONS

### That the Cabinet:

- 1. Authorises 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. Delegates authority to 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; decide 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.**

### Reasons for recommendation

A full report on title has established that the pavilion site at Hillingdon Court Park 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 provided 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 this 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 pavilion site and by advertising the proposed appropriation 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.

### Alternative options considered / risk management

There is no alternative but to appropriate the land if the pavilion site is to be sold as intended within the 2021/2022 financial year.

### Democratic compliance / previous authority

Cabinet on 24<sup>th</sup> September 2020 declared this site surplus to requirement and authorised the sale of the site with planning consent for residential development.

### Policy Overview Committee comments

None at this stage.

## SUPPORTING INFORMATION

1. Cabinet on the 24<sup>th</sup> September 2020 declared the Hillingdon Court Park pavilion site surplus to requirements and authorised the sale of the site with planning consent for residential development. The site had previously 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. The building has subsequently fallen into substantial disrepair and is not in a condition where it can be let or repaired. The pavilion is located in Parkway which is a predominantly residential area and it backs onto Hillingdon Court Park. Planning permission has been obtained for the development of 1 x 4 bed detached house.
2. The report on title established that the pavilion site is registered in two freehold titles owned by the Council, freehold title number AGL198287 and freehold title 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 provided that the Hillingdon Court Recreation Ground was to be laid out as public open space and thereafter maintained as such.
3. 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 pavilion site and advertising the proposed appropriation 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.
4. The Council will need to advertise its intention to appropriate the land pursuant to Section 122 of the 1972 Act in a local newspaper for two consecutive weeks and take any consultation responses into account before formally deciding to appropriate the land.
5. 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 as this will be required by any buyer on completion.

### Financial Implications

There are no direct financial implications arising from the recommended appropriation of the land, although this will facilitate the ultimate disposal of the site. The costs from the required advertisement are estimated at £356 this will be managed from within existing approved resources. Disposal of the site is expected to secure a substantial Capital Receipt and contribute towards the funding of the Council's 2021/2022 Capital Programme.

## RESIDENT BENEFIT & CONSULTATION

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

The appropriation of this land will result in the land being held for planning purposes. This will facilitate the sale of the land which will then enable the proposed residential development to be brought forward.

### **Consultation carried out or required**

The Council will need to advertise its intention to appropriate the land in a local newspaper for two consecutive weeks and take any consultation responses into account before formally deciding to appropriate the land.

## CORPORATE CONSIDERATIONS

### **Corporate Finance**

Corporate Finance has reviewed this report and financial implications above, noting that the minor advertising costs will fall upon existing resources. It is anticipated that agreeing these recommendations will lead to the disposal of the site, with the expected proceeds contributing towards the Council's forecast 2021/22 Capital Receipts target.

### **Legal**

If the Council wishes to appropriate land from public open space to planning, it will need to be satisfied that the provisions of Section 123 of the Local Government Act 1972 are met and in particular that the land is no longer required for the purposes for which it was held immediately before appropriation.

The Council will also need 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.

Case law has established that in determining whether land is required for a particular purpose, it is legitimate to weigh up the relative importance of different needs and to exercise judgment in the public interest. In this particular case, it would seem that the area of land in question is not needed to facilitate the open space purposes of Hillingdon Court Park Pavilion. However, the decision maker will need to be satisfied that there is in fact no need for the land to be used as public open space and that in weighing up competing needs, the balance falls in favour of appropriation and a declaration that the land is surplus to requirements.

Pursuant to Section 122 (2A) of the 1972 Act the Council will need to advertise its intention to appropriate the land in a local newspaper for two consecutive weeks and take any consultation responses into account before formally deciding to appropriate the land.

Pursuant to the Green Belt Act 1938, an application will need to be made to the Secretary of State for the release of the property from being part of a green belt area.

### **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.

## Appendix 1: Site Plan Hillingdon Court Park Pavilion

