

APPROPRIATION OF LAND AT FORMER YIEWSLEY SWIMMING POOL AND FALLING LANE YIEWSLEY

Cabinet Member(s)	Cllr Jonathan Bianco
Cabinet Portfolio(s)	Cabinet Member for Property & Infrastructure
Officer Contact(s)	Michele Wilcox, Infrastructure, Transport & Building Services
Papers with report	Site Plans

HEADLINES

Summary	<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 seeks to delegate authority to the Leader of the Council and Cabinet Member for Property & Infrastructure, in consultation with the Corporate Director of Infrastructure, Building Services and Transport 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>
Putting our Residents First	This report supports the following Council objectives of: <i>Our Built Environment and Strong financial management.</i>
Financial Cost	Advertising Costs of £456.
Relevant Select Committee	Corporate, Finance and Property
Relevant Ward(s)	Yiewsley

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 on the land set out in the plans.**
- 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 and 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 shown the land known as Yiewsley Recreation Ground, Falling Lane and the former Yiewsley Swimming pool at Otterfield Road is affected by the restrictive covenants imposed under a conveyance dated 21 August 1922, 21 March 1934 and 21 December 1926. 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 site from these agreements. Legal Services recommend that this is done by appropriating the site and this is done 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 site is to be developed and sold.

Democratic compliance / previous authority

Cabinet on 18th May 2017 authorised the development of the sites for residential development.

Select Committee comments

None at this stage.

SUPPORTING INFORMATION

1. Cabinet on the 17th of May 2017 authorised the development of the sites for residential development and a new library. There are two sites as shown on the site plans. The first is the former Yiewsley swimming pool site (known as the Otterfield Road site) and the second is the land at Falling Lane. The swimming pool had previously been closed in 2010 and demolished in 2011. Both sites are surplus to requirements, and it is proposed that new library with residential flats will be built at the Otterfield Road site and residential flats at the Falling Lane site.
2. The report on title established that the site is registered in a freehold title owned by the Council, freehold title number AGL 201173. The title contains a covenant that the land will be held for the purposes of public walks and pleasure grounds, and this affects both sites.
3. As it is proposed that the Otterfield Road site will be sold to Hillingdon First Ltd for development and that the Falling Lane site is developed for residential, the Council will have to obtain a release of the restrictive covenants that affect these sites. Legal Services recommend that this is done by appropriating both sites and this is done 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.
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. Site plans are attached showing the relevant land in question.

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 £456 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 development and sale of the land which will then enable the proposed residential development schemes and a new library 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, as part of a statutory process of consultation.

In addition, the Council received an petition in 2018 objecting to the development and seeking the retention of the restrictive covenants which are relevant to the land appropriation. It was agreed at that time that the lead petitioner would be advised when the consultation process would commenced so that the petition's views could be considered as part of the statutory consultation process, as opposed to a Cabinet Member petition hearing, in accordance with the Council's Petition Scheme. Officers will contact the lead petitioner to inform them when the consultation process begins.

CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance has reviewed this report and financial implications above, noting that the minor advertising costs will be funded from 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 case, the area of land in question is not needed to facilitate the open space purposes. 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.

Infrastructure / Asset Management

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

BACKGROUND PAPERS

NIL.