

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

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

### 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 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, 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>
<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 £456.
<b>Relevant Select Committee</b>	Corporate, Finance and Property
<b>Relevant Ward(s)</b>	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.

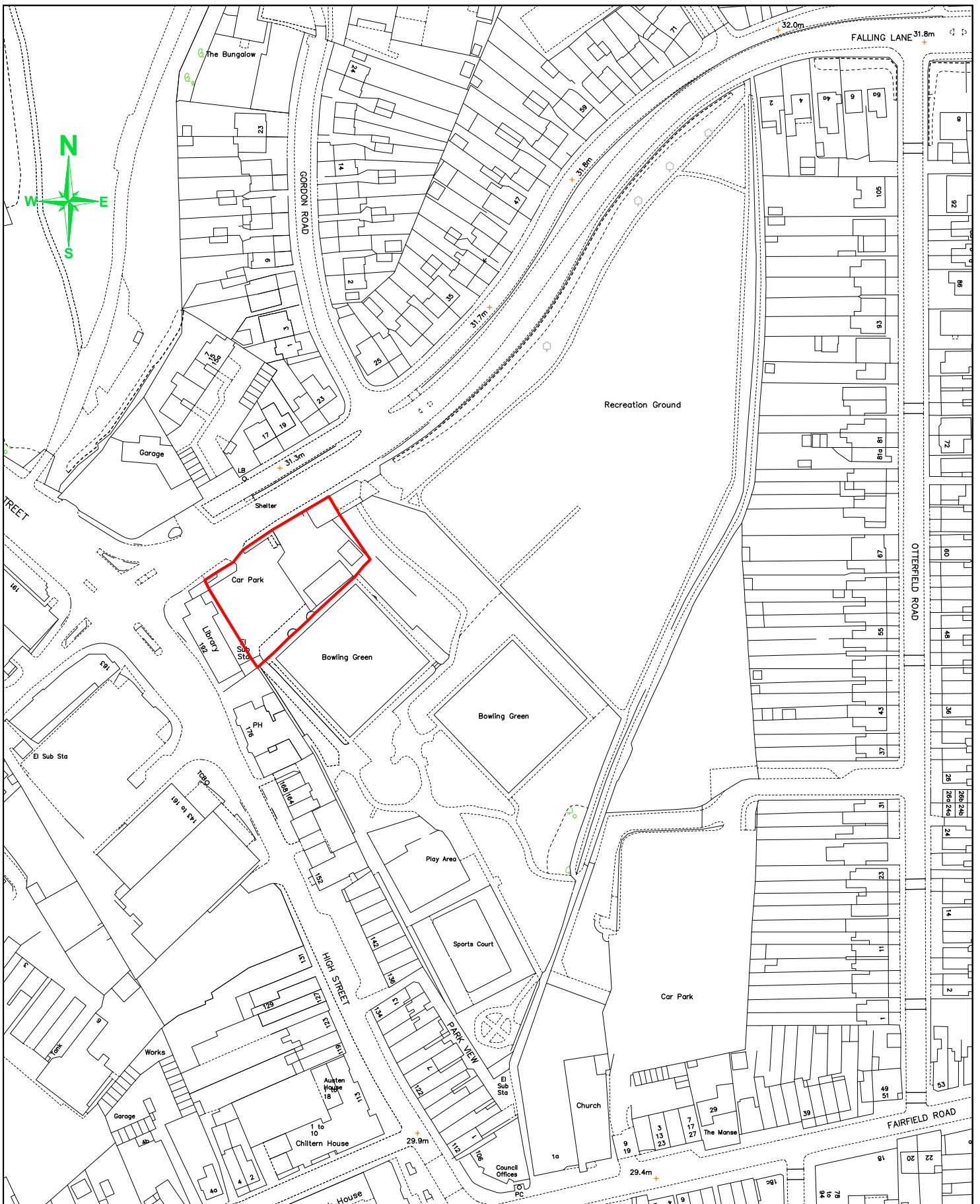
Pursuant to Section 122 (2A) of the 1972 Act the Council will need to advertise its intention to appropriate the land in a local newspaper for two consecutive weeks and take any consultation responses into account before formally deciding to appropriate the land.

## Infrastructure / Asset Management


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

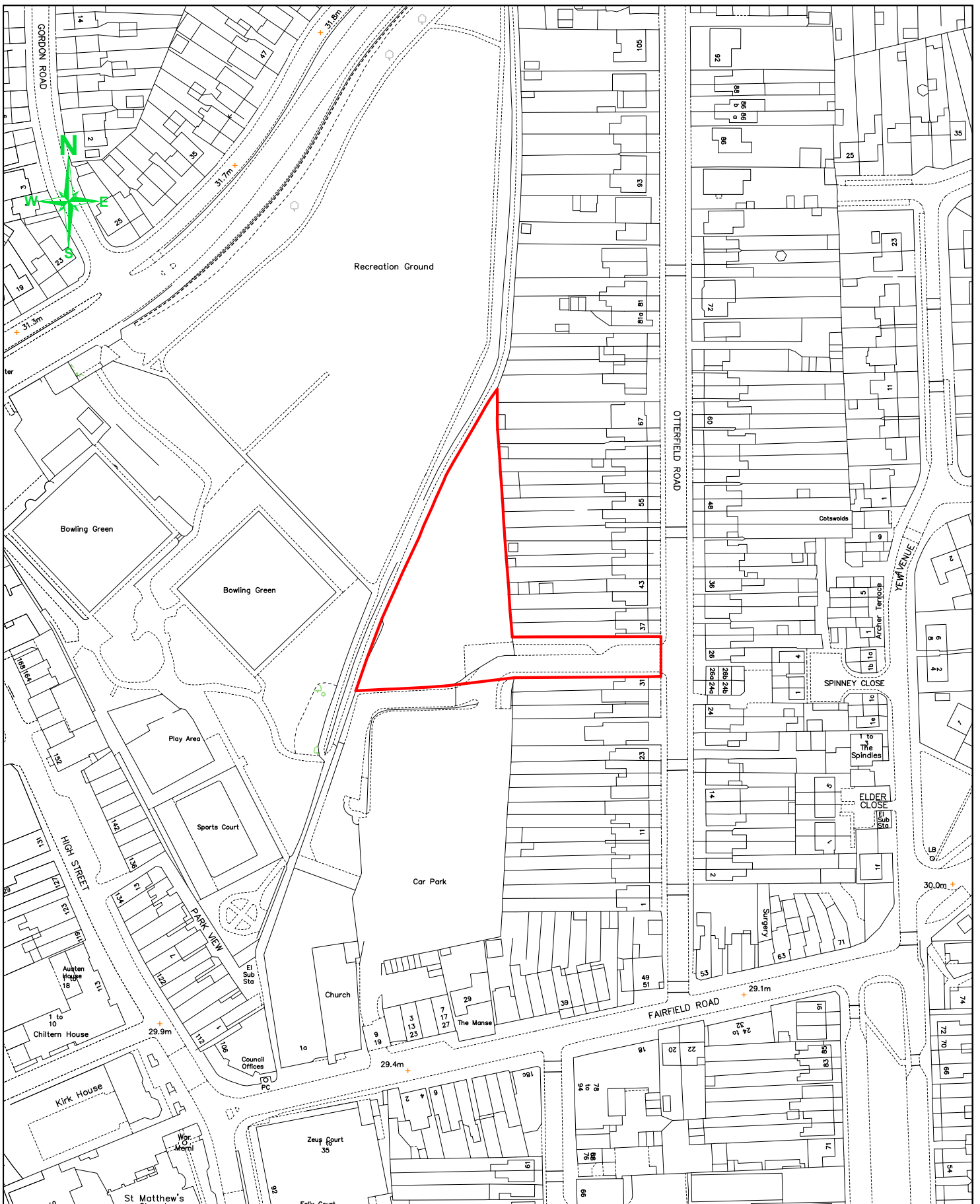
### BACKGROUND PAPERS

NIL.




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	<b>PROPERTY SERVICES</b> CIVIC CENTRE, HIGH STREET UXBRIDGE, MIDDLESEX, UB8 1UW	<b>TITLE</b>	<b>DRG No</b>
		<b>Land at Falling Lane West Drayton</b>	<b>YIE 336</b>
		<b>SCALE</b>	<b>1:1250 @ A3</b>
		<b>DATE</b>	<b>06/08/2021</b>



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	Land at Otterfield Road West Drayton	YIE 336	
		<b>SCALE</b>	1:1250 @ A3
		<b>DATE</b>	06/08/2021

## Minutes and Decisions

### **CABINET**

Thursday, 14 October 2021

Meeting held at Committee Room 6 - Civic Centre,  
High Street, Uxbridge



Decisions published on: Friday 15 October 2021

Decisions come into effect from: 5pm, Friday 22 October 2021

#### **Cabinet Members Present:**

Ian Edwards (Chairman)  
Jonathan Bianco (Vice-Chairman)  
Douglas Mills  
Martin Goddard  
Susan O'Brien  
Jane Palmer  
Eddie Lavery  
John Riley

#### **Other Members present:**

Duncan Flynn (Attendee of the Cabinet meeting as Chief Whip - non-voting)  
Nick Denys

#### **1. APOLOGIES FOR ABSENCE**

All Members of the Cabinet were present.

#### **2. DECLARATIONS OF INTEREST IN MATTERS BEFORE THIS MEETING**

No interests were declared by Members present.

#### **3. TO APPROVE THE MINUTES OF THE LAST CABINET MEETING**

The decisions and minutes of the Cabinet meeting held on 2 September 2021 were agreed as a correct record.

#### **4. TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART 1 WILL BE CONSIDERED IN PUBLIC AND THAT THE ITEMS OF BUSINESS MARKED PART 2 IN PRIVATE**

This was confirmed.



**10. APPROPRIATION OF LAND AT THE FORMER YIEWSLEY SWIMMING POOL AND FALLING LANE, YIEWSLEY**

**RESOLVED:**

**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 decision**

The Cabinet Member for Property & Infrastructure outlined the history to the Yiewsley Recreation Ground and the former Yiewsley Swimming pool sites, noting that Cabinet in 2017 had authorised their development for much needed housing and community facilities.

Cabinet, therefore, agreed to undertake statutory consultation to appropriate the land at these sites from public open space to planning purposes to enable the release of the restrictive covenant, thereby enabling the Council to progress their development.

The Leader of the Council welcomed the development of these sites in order to put them to good use for the benefit of residents.

**Alternative options considered and rejected**

Cabinet could have decided not to progress the appropriation of the land, but this would not have enabled the progression of these sites to be developed.

<b>Relevant Select Committee</b>	Corporate, Finance & Property
<b>Expiry date for any scrutiny call-in / date decision can be implemented (if no call-in)</b>	5pm, Friday 22 October 2021
<b>Officer(s) to action</b>	Michele Wilcox
<b>Directorate</b>	Infrastructure, Transport & Building Services
<b>Classification</b>	<b>Public</b>
	<i>The report and any background papers relating to this decision by the Cabinet are available to view on the Council's website or by visiting the Civic Centre, Uxbridge.</i>