

1st October 2020

Councillor Gillian Ford, Councillor Linda Hawthorn, Councillor Ray Morgan, Councillor Chris Watkins, Councillor Graham Williamson and Councillor David Durant are requisitioning the Cabinet Decision made on the 16th September for the disposal of the Land at Hall Lane Pitch & Putt Course, Upminster, on the following grounds:

The purpose of the Cabinet decision made on 16th September 2020 was to consider responses with respect to the appropriation for planning purposes and disposal of the land at Hall Lane Pitch and Putt Course, Upminster.

The following decision was made by the Cabinet:

1. That, having considered the responses received as a result of the public notices, and pursuant to the Cabinet decision of 13 March 2019, Cabinet approval is given to proceed with:
 - a) The appropriation for planning purposes of the land at Hall Lane Pitch and Putt, Upminster.
 - b) The disposal of the land at Hall Lane Pitch and Putt, pursuant to section 233 of the Town and Country Planning Act 1990. A Plan of the site is attached as Appendix 1 of the report.
2. That the Head of Property Services - in consultation with the Cabinet Member for Finance and Property - will as a result of this decision deal with all matters arising including the appropriation for planning purposes and thereafter the completion of the disposal of the land.

The purpose of the decision, therefore was not to consider the merits or demerits of the planning application or the planning position of the site. Notwithstanding the fact that a number of the grounds for requisition relate to matters that have already been considered and determined under the planning application, for which a resolution to grant permission has been made, the following responses have been provided:

- 1. The site is classified in Havering's Draft Local Plan as Open Space. The disposal of the land is a deviation from the Draft Local Plan.**

Policy DC18 of the Havering Core Strategy and Development Control Policies DPD states that the Council will seek the retention of all public space and recreation, sports and leisure facilities. Alternative uses will be allowed where the land is surplus to requirements because of other facilities existing in the locality and/or there is no need for other leisure/recreation uses. Any loss of open space must be accompanied by an improvement to the quality of open space in the vicinity.

Although there is an overall loss of open space as a result of the proposal, the current use of the land is considered surplus to requirements and at least 25% of the site would be public open space, as opposed to the current restricted access. In addition, a £120K financial contribution for improvements to Upminster Hall Playing Fields is to be made upon grant of planning consent (secured by legal agreement).

On balance (and taking into account the Council's obligation to increase housing supply) planning officers consider that the loss of open space accords with relevant planning policy.

2. 3.2 Identifies approximately 75% loss of existing open space for the area with a suggested 25% of public space retention. No evidence as to how "full access public open space" will be maintained and retained as public open space.

It is to be expected that the detailed arrangement would be negotiated at detailed planning stage. Council officers have anticipated this discussion however, hence the following resolutions:

Strategic Planning Committee (9 July 2020) resolved to grant permission subject to the prior completion of a legal agreement to secure (amongst others) the following planning obligations:

- (i)(4) Public access rights to open space provided within the development
- (i)(5) Satisfactory maintenance of all open space and other common areas within the development including any facilities/furniture provided as part of the common/public areas

Furthermore, the same committee resolved that the Assistant Director Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure (amongst others) the following matters:

- (7) Minimum provision of public open space
- (9) Minimum provision of play space

3. Wrong information provided in the report in relation to the location of Cranham Golf Course therefore the detail within the report is wrong in relation to accessibility.

The Golfing Facilities Needs Assessment Final Report (November 2018) (GFNA) does indeed describe (on page 19) Cranham Golf Course as being within Cranham Ward which is an error. However, this section of the report highlights that both this course and Upminster Golf Course are located within the central part of Havering alongside Hall Lane P&P. Cranham GC is described as being within 6 minutes drive time of the subject site. The report goes on to say that Cranham GC is an attractive proprietary pay and play 18 hole golf course which is recognised in player reviews as a good quality facility for beginners with good quality social facilities which are [at the time of the report] being extended and enhanced.

This report concludes that there is a good quantity of supply of golf facilities in Havering borough and its immediate surrounding area and this supply is well distributed to provide good accessibility from all parts of the borough.

4. Lack of consideration for alternative usage of the site on health grounds in regard to mental health, site and hearing requirements as quoted within the report.

The current facility (pandemic related closure notwithstanding) is an open space leisure facility that is underutilised and requires Council subsidy if it is to continue in operation.

The GFNA considered the amenity value of the existing facility in the context of national, regional and local planning policy. The report recognises recent policy changes in respect of justifying investment in community sports infrastructure in the light of rising levels of inactivity and consequent adverse effects on health and wellbeing. The report demonstrates clearly that it is surplus. The losses made year on year also prove this.

The Open Space Assessment recommends that with enhancements through public access – “a park [as the illustrative layout provided] would be much more beneficial to the area and the benefits are likely to outweigh the loss of part of the site to development”.

Nevertheless, the report concludes that Hall Lane P&P offers little value as a site to deliver the Council’s health and wellbeing policies. It is located in one of the borough’s least deprived wards where rates of physical activity are much higher than within the poorer wards.

The report highlights adequate alternative locations for golf users but does not address alternative leisure uses that might be undertaken on this site. That said, Upminster Hall Playing Fields lies in close proximity, is a much larger site and offers sports pitches, skate park, play facilities and large open space. The immediate locality is therefore well served in terms of alternative sport and recreation opportunities.

5. Lack of evidence on original acquisition of the site and legitimacy of rights of disposal.

The Cabinet Report sets out in some detail the process that must be followed (which is governed by statute) to enable it to be sold (including: identification as a surplus asset, appropriation to planning powers, associated consultation and consideration of responses). As a matter of practice, where there is no evidence to indicate that land was acquired for a particular purpose it is assumed that it is held for general land holding purposes and there are no special constraints on its disposal.

6. Total disregard for residents rights of access onto the site.

The Council does not recognise any rights of access or use acquired by any of the said residents but assuming such rights exist in law, to the extent to which they interfere with the use and development of the land (the subject of the statutory notices and which has been appropriated for planning purposes and then to be disposed of) for planning purposes, these rights will be overridden to the extent the development and use of the land extinguishes those rights – in exchange residents will be entitled to compensation to the extent the loss of the right diminishes the market value of their property.

7. Dereliction of duty to maintain the facility to a high standard.

The GFNA recognises that the Hall Lane P&P facility offers a low quality of course and ancillary facilities and there is no on-site parking. It also requires a substantial subsidy to operate.

The GFNA reported that the site offered no potential to be enhanced to become financially viable. Standalone Pitch and Putt and/or Crazy Golf is only attractive to sufficient numbers of users to achieve financial viability in locations where these facilities are complementary to other sports and recreational facilities - for example in destination parks such as Battersea Park or Alexandra Park, or in commercial golf centres as part of a wider offer with parking and hospitality facilities such as Golf Kingdom Family Golf Centre in Romford or West Park in Chelmsford.

Despite the above advice, at the time of the 2019 report, the Council had obtained quotations for necessary remedial works to sustain the current operation (replacement of fencing/gates to Hall Lane, tree works and works to the pavilion) which together totalled approximately £35K. Were these works to be undertaken, the facility was still predicted to run at a loss.

That is not to say that the Council has not kept the course regularly maintained to keep it in a usable condition (essential for any golf facility) and therefore that there has been any dereliction of duty.

8. Information on opening times of the site is misleading. The amount of hours the site was open does not equate to the reference made within the report.

The information of opening hours is based on the published opening hours on the Council website and the site itself. However, the GFNA states that the Hall Lane P&P is available for use between 10am and 5pm at weekends, bank holidays and on weekdays in the school holidays between April to October, subject to suitable weather conditions.

This report was prepared by Continuum in accordance with the latest guidance published by Sport England and the requirements of the NPPF 2018. It relied on Continuum's own research/site visits, was project managed by the council's Head of Property Services and other Council officers were consulted to inform this review.

Information on opening hours will have been provided by Council staff who also had the chance to review and comment upon the draft report prior to it being more widely circulated.

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It is to be expected that any errors, including those in respect of opening times, would have been picked up at that stage.

9. The loss of open space against the London Plan Policy is “partially compliant with policy 7.18 of the London Plan” not fully.

Policy 7.18 of the London Plan states that the loss of protected open spaces must be resisted unless equivalent or better quality provision is made within the local catchment area.

London Plan policy is not the only planning policy against which this proposal must be judged however. The Cabinet Report (Appendix 3, Para 3.2) also reflects the conclusion that the proposal does accord with paragraph 97 of the NPPF and Havering planning policies.

The Council also has obligations in respect to the creation of new, high quality, housing under national, regional and local planning policy.

10. Lack of detail as to how the provision of primary and secondary education places against school capacity will be achieved beyond investment.

LBH School Organisation was consulted regarding the planning application and its response was that the development would generate additional children and this should result in a CIL or s106 contribution for additional school places. So, in effect, this response envisages a financial investment approach to enhancing school provision.

Havering CIL would be applicable at £125 per square metre of new development floor space. The final CIL figure would be calculated once any reserved matters application pursuant to the outline permission is submitted.

11. Lack of security of existing trees despite suggested TPO's.

Strategic Planning Committee (9 July 2020) resolved to grant permission subject to the prior completion of a legal agreement to secure (amongst others) the following planning obligation:

(ii) Prior to issuing decision, issuing of a Tree Preservation Order covering the most important trees on the site

Furthermore, the same committee resolved that the Assistant Director Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure (amongst others) the following matters:

(39) Tree root protection zones and other protection measures

(40) Landscaping approved as part of reserved matters to be retained/maintained for 5 years

(41) Landscaping as part of reserved matters to show tree retention plan

(42) Removal of permitted development rights (including).....no extensions or outbuildings within 5 metres of trunk of any protected tree.....no hard surfaces within 5m of protected trees....

12. Insufficient consideration has been given to increasing carbon offset.

Strategic Planning Committee (9 July 2020) resolved to grant permission subject to the prior completion of a legal agreement to secure (amongst others) the following planning obligation:

(i)(2) Carbon Offset payment [this will be secured through a s106 agreement]

Furthermore, the same committee resolved that the Assistant Director Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure (amongst others) the following:

(23) Any boilers to be ultra low NOx boilers

The planning application was supported by an Outline Energy Statement, prepared by XCO2. In terms of carbon offset, this report concluded that the proposed development complies with the London Plan CO2 savings target of 35% to be achieved on site. To achieve 'zero carbon' as required for major residential developments, the equivalent of 2,070 tonnes over 30 years should be offset offsite (hence the reference to the s106 payment above).

This statement concludes that, overall, the proposed development has been designed to meet energy policies set out by the GLA and LB Havering which demonstrates the client and design team's commitment to enhancing sustainability of the scheme.

It is important to note that this report addressed the original 48 unit development proposal. The current proposals, containing a maximum of 37 dwellings, will no doubt reduce the offsite requirement for offset.

13. The Hall Lane Policy Area should be extended to incorporate this site.

Whilst the subject site is excluded from this policy area, it is surrounded by HLPAs Zone B. The policy area designation does not preclude development activity and the proposals for the Hall Lane P&P site, following consultations with Council officers, were amended to comply with the requirements of the adopted planning policy as it affects development within Zone B of the HLPAs. It is thus not clear how the inclusion of this site within the policy area would have affected the outcome in town planning terms.

Summary Comments

Points 1,2 (to a degree),9,10,11,12, and 13 relate to planning considerations, which have already been considered and determined under the planning application, for which a resolution to grant permission has been made. The rest of the points broadly relate to the 2019 Cabinet decision where the principle that the site was surplus to requirement was agreed.

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The 16th September 2020 cabinet report reiterates the Council's intention to see the land used for development. By securing outline planning and other relevant consents, the Council will be able to maximise the anticipated capital receipt from the site and demonstrate compliance with obligations to achieve the best consideration reasonably obtainable. The anticipated capital receipt site will fund priority capital projects approved as part of the Council's Medium Term Financial Strategy and Capital Strategy.