



CABINET 10 July 2013	REPORT

Subject Heading:	Appropriation of Land for Planning Purposes & Disposal of Open Space at the Briar Road Estate in Harold Hill.
Cabinet Member:	Councillor Steven Kelly, Deputy Leader of The Council with special responsibility for Harold Hill Ambitions
CMT Lead:	Ian Burns, Interim Assistant Chief Executive, Legal & Democratic Services
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Policy context:	This report deals with a statutory process and is not subject to Council policies.
Financial summary:	No significant financial impact. Any costs of appropriation are being met from existing resources.
Is this a Key Decision?	No
Is this a Strategic Decision?	No
When should this matter be reviewed?	Not Applicable
Reviewing OSC:	Value and Towns & Communities OSCs

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

- 1.1 Cabinet approval has been given to the disposal of 33 small areas of Council owned land across the Briar Road Estate. The approval has been granted in conjunction with the Harold Hill Ambitions project.
- 1.2 As part of the preparatory legal process in connection with the proposed disposal, a decision was taken to formally advertise the proposed disposal of open space and the proposed appropriation of the land for planning purposes. The statutory process governing the disposal and appropriation of land requires the proposals to be publicly advertised and for any objections to be considered.
- 1.2 This report describes the background to these proposals, sets out the responses received to the relevant public notices and provides further information relevant to the consideration of these representations.

RECOMMENDATIONS

That, having considered the responses made to the public notices in respect of land at Briar Road, Harold Hill in connection with the proposed disposal and appropriation of land for planning purposes, Cabinet approval is given to proceed with:-

(a) The appropriation of the sites outlined in red in Appendix 3 of this report to planning purposes, and

(b) The disposal of the sites outlined in red in Appendix 1 of this report under Sections 122 and 123 of the Local Government Act 1972.

REPORT DETAIL

- 3.1 The Council own the freehold interest in a number of sites as shown edged red in Appendix 1. The sites are located on the Briar Road estate.
- 3.2 The principle of disposal of land across the estate for the purpose of generating additional housing was approved by Cabinet in conjunction with the wider regeneration objectives for Harold Hill. Cabinet subsequently approved the selection of a preferred bidder on 26

October 2011 and delegated authority to agree the specifics of the disposal to the Lead Member. The Lead Member authority set out the Heads of Terms and authorised the commencement of the necessary administrative processes.

- 3.3 Discussions have continued with the preferred bidder and they have reached a stage where the purchaser has submitted planning applications on each of the sites. A number of the planning applications have been considered by Regulatory Services Committee.
- 3.4 The Council is authorised to dispose of any land that it owns but where such land can be regarded as open space (defined under Section 336(1) of the Town and Country Planning Act 1990 as “any land which is a public garden, or used for the purposes of public recreation...”) the Council must under Section 123(2A) of the Local Government Act 1972 advertise its intention to dispose of the land for two consecutive weeks in a newspaper circulating the area in which the land is situated, and consider any objections which may be made to them.
- 3.5 Furthermore, all Council owned land is held for a particular purpose and the process of documenting any change to that purpose is called “appropriation”. As a decision has been made to dispose of these sites for residential development and in some instances planning consent for this use has been granted the relevant purpose for holding them is now for planning purposes pending their disposal.
- 3.6 The Council is authorised to appropriate land that it owns for planning purposes under Section 122 of the Local Government Act 1972 which, subject to a number of provisions allows “a principal council to appropriate land which belongs to the Council and is no longer required for the purpose for which it was held immediately before the appropriation....”.
- 3.7 Where the appropriation is in respect of open land, the Council is required under Section 122(2A) of the Local Government Act 1972 to advertise its intention to appropriate the land for two consecutive weeks in a newspaper circulating the area in which the land is situated, and consider any objections which may be made to them.
- 3.8 The sites that have been authorised for disposal are not all typical areas of open land for public recreation. They include forecourts, garages and/or areas of grass verge. However, a decision has been taken to advertise their proposed disposal and appropriation accordingly given that all of the sites are part of a single development project.
- 3.9 In the case of all of the 33 sites identified for disposal at Briar Road, the Council has made a formal decision that the land is not required for its current use and that it should be identified for disposal for residential development.

- 3.10 By formally appropriating the land for planning purposes the Council or any other person may subject to Section 241 of the Town & Country Planning Act 1990, develop the land in accordance with a planning permission.
- 3.11 The Council should only propose to appropriate land for planning purposes if it has an intention to see the land used for development which promotes or improves the economic, social or environmental well being of its area and believes that the appropriation is needed in order to facilitate or achieve those aims. The applicant is a Housing Association/Registered Provider and it is envisaged that the residential units will be managed as such.
- 3.12 The decision to initiate the statutory processes was approved on 6 March 2013. In the circumstances, public notices relating to both the disposal and the proposed appropriation were placed in the local press on 3 May 2013 and 10 May 2013. Copies of the notices are shown in Appendix 2. The final date for submission of any response to both notices was 31 May 2013.
- 3.13 If representations are made to the Council in response to these notices it is necessary for the Council to fully consider these representations and to take them into account in deciding whether to proceed with the disposal and appropriation. It should be stressed that the issues under consideration in this report are simply whether the proposed appropriation and the proposed disposal of land should proceed and the representations need to be carefully considered within that context. The issues surrounding the decision to grant planning consent or resolution of the Regulatory Services Committee to grant consent have been fully considered under a separate decision making process. .
- 3.14 No representations were received on 28 of the 33 sites. In those circumstances the appropriation and disposal can proceed and no formal consideration by members is required.
- 3.15 Representations were made on 5 of the 33 sites and this report seeks only to deal with those sites on which objections were received.
- 3.16 It is now necessary for Cabinet to formally consider these responses and to decide whether the proposed disposal and appropriation for planning purposes should proceed. The responses received were specific to 5 sites and therefore they are analysed – and should be considered – individually.
- 3.16 Site 7A – Clematis Close**
- A response to both notices has been received on this site which was submitted by the specified date.

- The response is a standard letter signed by six residents from Buckbean Path and should be regarded as six objections to both appropriation and disposal. A copy of the standard letter is attached at Appendix 3.

As a copy is attached it is not necessary to set out the full details here but the grounds for objection can be summarised as follows::

1. The junction at Clematis Close and Briar Road will become more dangerous
2. Additional dwellings will generate an increased need for parking and more congestion on the roads
3. Construction work will prevent access to the existing houses whilst it is ongoing.
4. The land is a green space and improvements to Bosworth Field will not greatly benefit residents on this part of the estate as it is some distance from Bosworth Field.

- The responses to each of these points are shown below:
 1. This issue is a Highways matter rather than an issue affected by appropriation or disposal. Consideration will be given to the road layout in conjunction with the planning application. Any works required to the junction would be considered by the Council as Highways Authority under the Highways Act 1980.
 2. Whilst it is clearly the case that this is a matter of concern for the respondents it is an issue that is related to planning matters and that either have been – or will be – subject to full scrutiny as part of the planning process and will be determined in line with the relevant planning policies and legislation. This is not an issue that is directly related to the disposal of land or to its appropriation. Parking will be provided in support of the new dwellings and additional parking is also proposed to alleviate congestion within the vicinity.
 3. Again, this is a planning issue – see above. Construction work will affect the immediate area whilst work is underway. However, this will be regulated by the Planning department of the Local Planning Authority and conditions imposed accordingly. Entrances to existing homes will not be blocked by any works.
 4. Bosworth Field is a substantial area of green space within the Briar Road estate. This field will be improved to enhance outdoor play opportunities and activities. Other pockets of green space across the estate will be unaffected.

3.17 Site 9B and 9C – Garage Sites along Clematis Close

- A single response has been received on these sites which were submitted by the specified date.
- The response is a standard letter signed by the same six residents from Buckbean Path. A copy of the standard letter is attached as Appendix 3.

- The response states that it relates to both appropriation and disposal and should be regarded as six objections to both notices.
- The two sites have been linked by the respondents on account of their proximity to one another. This is perfectly acceptable and for complete accuracy should be regarded as six objections on both sites on both notices.
- As a copy is attached it is not necessary to set out the full details here but the grounds for objection can be summarised as follows:
 1. Building the houses will not be in line with existing housing and will not enhance the layout
 2. End of terrace properties will be devalued and rear access removed
 3. Demolition of the garages will cause damage
 4. Car parking is a key issue
 5. Concerns that the car parking which is created within a section of the grassed areas will allow vehicles to cross footpaths and cause danger to children
 6. The grassed areas are used by people with dogs
 7. Additional building in an over-populated area is irrational
 8. The notices in the Romford Recorder should have labelled the sites differently.
- The response to each of these points are shown below:
 1. Whilst it is clearly the case that this is a matter of concern for the respondents it is an issue that is related to planning matters and that either have been – or will be – subject to full scrutiny as part of the planning process and will be determined in line with the relevant planning policies and legislation. This is not an issue that is directly related to the disposal of land or to its appropriation. In this case the layout of the houses has already been considered by the planning department in connection with the planning application. This issue was considered by the Regulatory Services Committee and the point that was considered in the planning report was that:
 - a. *The proposed dwellings would front on to Clematis Close but are aligned with the front building line of the adjacent terrace of houses to the east. The end unit is set slightly further back into the site, such that the development is not considered to appear overbearing or out of character in the wider street scene. The proposed dwellings are also set in from the western boundary of the site and considered to relate acceptably to the Clematis Close street scene.*
 2. There is no evidence available of how (if at all) the proposed regeneration of the Briar Road estate will affect the values of existing property on the estate. However, the whole regeneration initiative is focused on a number of environmental improvements designed to make the area more attractive both for existing residents and to those who may wish to buy or rent a property and move on the estate.

3. Again, this is a planning issue – see above. Construction work will affect the immediate area whilst work is underway. However, this will be regulated by the Local Planning Authority and conditions imposed accordingly.
4. Again, this is a planning issue – see above. Parking will be provided in support of the new dwellings. Additional parking is also proposed across the estate to alleviate parking concerns generally.
5. The grassed area referred to is outside the planning application site but it has been confirmed that a replacement wall will be constructed to protect the green.
6. The development will result in the loss of two small sections of grass verge along Clematis Close. Additional verges along the same side of the road will not be affected.
7. Comments regarding additional building have been noted but the development has been considered within the context of the wider regeneration objectives for the estate.
8. Comments regarding the labelling of the sites have been noted. The notices were supported by separate plans of each site to assist with identification and these were available for inspection at the Public Advice & Service Centre throughout the consultation period.

3.18 Sites 10C and 10D – Barberr Close

- A single response has been received from a resident in Barberr Close which was submitted by the specified date.
- The response is a standard letter but does not specify whether it is in respect of the disposal notice or the appropriation notice. The response raises issues that could relate to both and should be regarded as an objection to both notices. A copy of the standard letter is attached at Appendix 3.
- As a copy of the letter is attached, it is not necessary to set out the full details here but the grounds for objection in the standard letter can be summarised as follows:
 1. The parking capacity in the area that will be available to existing residents following the proposed development.
 2. The number of dwellings proposed is excessive.
- The response to this issue is shown below:
 1. Whilst it is clearly the case that this is a matter of concern for the respondents it is an issue that is related to planning matters and that either have been – or will be – subject to full scrutiny as part of the planning process and will be determined in line with the relevant planning policies and legislation. This is not an issue that is directly related to the disposal of land or to its appropriation. Parking will be provided in support of the new dwellings and additional parking is also proposed to alleviate congestion within the vicinity.

2. This is a planning issue which is properly the concern of the Local Planning Authority through its Regulatory Services Committee.

REASONS AND OPTIONS

4 Reasons for the decision:

- 4.1 This decision is required as a result of the statutory processes involved in dealing with the proposed disposal and appropriation of land for planning purposes.

5 Other options considered:

- 5.1 Having placed the notices it is necessary for the Council to formally consider the response received. As this report only concerns the consideration of these responses no other options are available.

IMPLICATIONS AND RISKS

6 Financial implications and risks:

- 6.1 There are no financial implications and risks in considering the responses received to a public notice dealing with the disposal and appropriation of land for planning purposes.

7 Legal implications and risks:

- 7.1 The Council is seeking to dispose of and appropriate land for planning purposes under Sections 122 and 123 of the Local Government Act 1972.
- 7.2 Prospective purchasers of land commonly require local authorities to provide clean title to land by such appropriation, thus clearing encumbrances such as easements. Appropriation for planning purposes achieves this. Public law decisions of local authorities are subject to the risk of judicial challenge..

8 Human Resources implications and risks:

- 8.1 There are no Human Resources implications and risks in considering the responses received to a public notice dealing with the disposal and appropriation of land for planning purposes.

9 Equalities implications and risks:

- 9.1 There are no Equalities implications and risks in considering the responses received to a public notice dealing with the disposal and appropriation of land for planning purposes.

BACKGROUND PAPERS

1. Representations made objecting to the proposed disposal and appropriations of land at sites 7A, 9B and 9C Clematis Close and sites 10C and 10D Barberry Close (also see Appendix 3 of this report).