

Report to the Council Housebuilding Cabinet Committee



**Epping Forest
District Council**

Report reference: CHB-002-2018/19

Date of meeting: 30-August-2018

Portfolio: Housing

Subject: Appropriation of land at various sites

**Responsible Officer: P Pledger – Asst Director (Housing Property &
Development) (01992 564248)**

Democratic Services: J Leither (01992 564756)

Recommendations/Decisions Required:

- (1) That the former garage sites and associated amenity land at the following former garage sites, namely:
- a. Pound Close, Nazeing;
 - b. Palmers Grove, Nazeing;
 - c. Colvers, Matching Green; and
 - d. Parkfields (Site A), Roydon

and that have been previously considered and agreed by the Cabinet Committee at its meeting in June 2015 as viable for the development of Council House Building, be appropriated for planning purposes under provisions laid out in the Local Government Act 1972 and Town and Country Planning Act 1990 on the grounds that the land is no longer required for the purposes for which it is currently held in the Housing Revenue Account.

Executive Summary:

At its meeting in June 2015, the Council House-building Cabinet Committee recommended that the land at Pound Close and Palmers Grove, Nazeing, the land at Colvers, Matching Green and land at Parkfields (Site A), Roydon be appropriated under the Local Government Act 1972 and Town and Country Planning Act 1990 to change the purpose for which the land is held from one statutory purpose to another. However, due to an administrative error that recommendation was not presented to the Cabinet Committee for approval.

Reasons for Proposed Decision:

Appropriation of the land cannot take place after a planning application has been submitted otherwise there is a risk that the proposed re-development scheme may be frustrated by third party rights, which would in turn frustrate the Council's regeneration objectives for the site. By appropriating land, once planning permission is obtained, the rights of affected third parties can be overridden to the extent that they become an entitlement to compensation rather than a right to obtain an injunction to prevent the scheme.

Other Options for Action:

1. Not to appropriate the land and take the risk that a third party will not try to prevent the development by laying claim to a long established right of access across the land.

Report:

1. The Cabinet Committee have been delegated authority to appropriate land for planning purposes as set out in its Terms of Reference. However, as a reminder, the Council holds property for various statutory purposes in order to provide its various functions. Such land is used only for the purpose of the function for which it was originally acquired, until such time as the land is disposed of or “appropriated” for another use.
2. Appropriation is the procedure under the Local Government Act 1972 and Town and Country Planning Act 1990 to change the purpose for which the land is held for one statutory purpose to another, provided that the land is no longer required for the purpose for which it was held immediately before the appropriation. The consent of the Secretary of State is required to appropriate the land.
3. The Council wishes to see each of the development sites redeveloped for the specific purpose of residential accommodation on a land which previously was used for garages and / or amenity land, which in the current usage the former are not fit for that purpose. By appropriating the sites for planning purposes, the Council will be able to secure its redevelopment and future use by relying on the statutory provisions relating to the redevelopment and disposal of the land held for planning purposes.
4. There is a risk that the proposed re-development scheme may be frustrated by third party rights, which would in turn frustrate the Council's regeneration objectives for the sites. By appropriating land, once planning permission is obtained, under the Housing and Planning Act 2016 the rights of affected third parties can be overridden to the extent that they become an entitlement to compensation rather than a right to obtain an injunction to prevent the scheme.
5. Due to an administrative oversight the recommendation for the appropriation of the following sites was not presented to the Cabinet Committee as part of the decision to progress to detailed planning stage agreed by the Cabinet Committee at its meeting in June 2015:

(a) Pound Close, Nazeing

That the Cabinet Committee agreed this was a viable site to progress to a detailed planning stage.

(b) Palmers Grove, Nazeing

That the Cabinet Committee agreed this was a viable site to progress to a detailed planning stage. However, Members requested that the design should accommodate a vehicular turning circle on the site.

(c) Colvers, Matching Green

That the Cabinet Committee agreed that Option B, 2 x 3 bedroom 2 storey houses with 5 parking spaces, was a viable site to progress to a detailed planning stage.

(d) Parkfields (Site A), Roydon

That the Cabinet Committee proposed that this site would be included in a future phase of the Council House-building Programme as the access to the site would need to be looked at due to being narrow and no turning point on the site.

6. It is therefore recommended that the former garage sites and associated amenity land listed above and that have been previously considered and agreed by the Cabinet Committee at its meeting in June 2015 as viable for the development of

Council House Building, be appropriated for planning purposes under provisions laid out in the Local Government Act 1972 and Town and Country Planning Act 1990 on the grounds that the land is no longer required for the purposes in which it is currently held.

Resource Implications:

There are no direct resource implications associated with this report. However, there may be claims from third parties whose rights have been “interfered with” as a result of the appropriation and development, which could entitle them to make a claim for compensation for any loss in market value they have suffered. This would need to be assessed in accordance with the “Compulsory Purchase Code”. Such claims are usually settled between Valuers, by agreement; but there is a right to refer the claim to the Upper Tribunal (Lands Chamber) for determination.

Legal and Governance Implications:

Local Government Act 1972, Housing Act 1985, the Town and Country Planning Act 1990 and the Housing and Planning Act 2016.

Safer, Cleaner and Greener Implications:

Not Applicable

Consultation Undertaken:

None

Background Papers:

Council House-building Cabinet Committee report and minutes associated with the feasibility study for the various sites contained within the report, dated 4 June 2015.

Risk Management:

The risks associated with third party claims are set out within the body of the report, as well as the risk mitigation of appropriating the land.

Equality Analysis:

The Equality Act 2010 requires that the Public Sector Equality Duty is actively applied in decision-making. This means that the equality information provided to accompany this report is essential reading for all members involved in the consideration of this report. The equality information is provided as an Appendix to this report.