

Council House Building: Stanstead Road Full Budget Approval and Appropriation of land at Stanstead Road and Pelham House

Housing Committee Thursday, 23 January 2025

Report of: Director of Resources

Purpose: For decision

Publication status: Unrestricted

Wards affected: Portley and Queens Park; Valley

Executive summary:

This report seeks approval for a full budget for the Stanstead Road redevelopment site. It also updates Members on the recent consultation for the appropriation of land at the proposed development and seeks approval to continue with and ultimately conclude the appropriation process at the relevant time. The report also seeks approval to proceed to complete the appropriation process for Pelham House.

This report supports the Council's priority of: Delivering affordable housing for local people

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Recommendation to Committee:

It is recommended that the Committee:

- A) Approve a budget of £2,010,000 from the Housing Revenue account capital budget

- B) Approve the appropriation of land for planning purposes at 53-67 Stanstead Road and as set out in Appendix A, subject to consent from the Secretary of State (SoS) for the Ministry of Housing, Communities and Local Government
- C) Approve the appropriation of land for planning purposes at Pelham House and as set out in Appendix C
- D) Delegate authority to the Director of Resources, to undertake the necessary legal and internal processes to deliver the appropriation.
- E) Delegate authority to the Director of Resources, to appoint professional consultants and award the necessary contracts to take the scheme forward;

Reason for recommendation:

The recommendation supports one of the Council's key strategic objectives as the progression of this scheme will enable the delivery of new affordable housing for rent as part of the Council House building programme.

Introduction and background

- 1 Numbers 53 – 67 Stanstead Road in Caterham are currently held by the Housing Revenue Account. The properties comprise of a block of eight purpose-built flats that have been identified for demolition. The flats were constructed in 1952 and although they have received cyclical maintenance, they are nearing the end of their useful life. Except for one 2-bedroom flat the flats are small one-bedroom dwellings designed for single people. The whole building has been identified as in need of refurbishment including an upgrade of the communal heating system at a cost of circa £45k. The uPVC windows are nearing thirty years old and there are numerous reports from each flat of draughty windows and plumbing leaks and issues. The roof will need replacing within the next 5 years at a cost of approx. £80k. The Council owns the block and surrounding communal land and there are no leaseholders.
- 2 The building receives cyclical maintenance but has been identified as reaching the end of its useful life and therefore suitable for demolition to allow for the construction of family sized dwellings to meet the high needs on the housing register.
- 3 In March 2023 the [Housing Committee approved a budget](#) of £30,000 for costs associated with getting the scheme to the stage of pre-application advice and £80,000 for disturbance and home loss payments.
- 4 Under s105 of the Housing Act 1985 the secure tenants in the block were consulted and following the consultation they received an Initial Demolition Notice. Residents from five of the flats have since been assisted to move into alternative suitable accommodation and the flats they vacated are currently being used as temporary housing. A sixth resident is in the

process of moving and of the two final residents, one is waiting to move into Wadey Court and the other is in residential care.

- 5 An architect, employers agent and other necessary consultants have been appointed and an initial design is ready for discussion with planning officers as part of formal pre-application advice. The design is for 3 three bedroom houses and 1 four bedroom house. A works cost estimate has been drawn up by the Employers Agent.

Appropriation and Consultation – Stanstead Road

- 6 Property and land that is already held for housing purposes must be appropriated for planning purposes and then held by the Council under the statutory provisions of Part 9 of the Town and Country Planning Act 1990. The practical consequence (by virtue of sections 203-205 of the Housing and Planning Act 2016) is that the demolition, erection, construction or carrying out of any maintenance of any building or work on the land and subsequent use of the land is authorised under those planning powers, if the works are done in accordance with planning permission, even if they interfere with third party rights. It should be noted that the beneficiaries of any rights that have been interfered with may be able to claim compensation.
- 7 The Council's [Housing Committee, at its meeting on 16th March 2023 resolved](#) that the relevant Officer commences the process of appropriating land from housing to planning purposes at 53-67 Stanstead Road.
- 8 The Council has now consulted on its plans to appropriate the Stanstead Road site from housing land to planning purposes. The consultation commenced from 12 December 2024 to 6 January 2025. Letters were sent to 30 households within close proximity to the site notifying them of the Council's development plans and intention to appropriate the land. Recipients were invited to respond with any objections to the appropriation by 5pm on 6th January 2025.
- 9 This report considers the outcome of that consultation and seeks approval to proceed to the next and final stages of the appropriation process. On completion of any development, the land would need to be appropriated back to housing land from planning purposes and the report also seeks approval for this to be undertaken at the appropriate time.
- 10 There have been no responses to the written invitation for representations or objections.
- 11 Paragraph one of this report sets out the numerous issues that affect the building and why replacing the properties with modern and well insulated buildings that are designed to be operationally net zero carbon is a better and more cost-effective approach.
- 12 The redevelopment of 53-67 Stanstead Road also enables the Council to respond to the significant need for family sized housing in the area. As part of the appropriation process, the consent of the secretary of State is required, in accordance with s19(2) of the Housing Act 1985, where there is existing housing on the site. The above information will be

submitted in the application to demonstrate that the land is no longer required for the purpose for which it is held and that the appropriation of the site for the proposed redevelopment, which will contribute to the economic, social and environmental well-being of the area, is justified in these specific circumstances.

Appropriation Pelham House

- 13 The Housing Committee resolution to commence the process of appropriating the land at Pelham House from housing to planning purposes in accordance with Section 122 (1) of the Local Government Act 1972 was approved on 24th March 2022 ([minute 302 2021/22](#)).
- 14 As the Council did not do a public consultation on the development proposals at Pelham House, the approval to sign a memorandum was not obtained when we requested full budget approval from Housing Committee on 4th October 2022.
- 15 There has now been a formal public consultation as part of the planning application process and there have been no responses from any third parties expressing any rights over the land that the Council needs to consider. The Council has also already obtained consent from the Secretary of State to appropriate the land for planning purposes.
- 16 The appropriation of the land for the economic, social and environmental well-being of the area should be considered justified when set against the very great need for affordable housing in the district.

Budget

- 17 The budget required to complete this scheme is £2,010,000. This figure is based on a works cost estimate from our Employers Agent as well as a 10% works cost contingency. At £2,010m, the scheme is financially viable in that the rent generated will pay for the cost of borrowing over the life of the scheme.
- 18 The £2,010,000 figure is a total scheme cost. It includes the previous budget approved of £110,000 as detailed above, the demolition and works costs (as estimated by our Employers Agent), consultants including architects and employers agents and a contingency.
- 19 A bid for Homes England grant will be made once the scheme is in contract and new details of the Affordable Homes Programme (AHP) have been set out by the government. The appraisal assumes grant of £75,000 per unit.

Other options considered

- 20 A delay to approving the budget, appropriation process and ability to award a works contract would delay the scheme
- 21 A decision not to take the scheme forward would result in written off costs of approximately £60k (including statutory home loss payments).

Consultation

22 Ward members have been consulted.

Key implications

Finance Comments (completed by the Deputy S151 Officer)

The draft Housing Revenue Account Budget 2025/26 being presented at the 23rd January 2025 Housing committee has sufficient budget within the unidentified schemes to fund the recommendations in this report.

Legal Comments (completed by the Deputy Head of Legal)

The general power to appropriate is found in section 122(1) of the Local Government Act 1972 (the 1972 Act).

This states that Councils may appropriate for any purpose for which the Council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation ..."

Appropriation concerning the HRA is specifically dealt with in section 19 of the Housing Act 1985.

Section 19(1) states: "A local housing authority may appropriate for the purposes of this Part 2 (which deals with the provision of housing accommodation) any land for the time being vested in them or at their disposal and the authority have the same powers in relation to land so appropriated as they have in relation to land acquired for the purposes of this part".

Section 19(2) reads:

'Where a local housing authority have acquired or appropriated land for the purposes of this Part, they shall not, without the consent of the Secretary of State, appropriate any part of the land consisting of a house or part of a house for any other purpose.'

The power to appropriate land for planning purposes whilst remaining in the HRA in the context of this report simply involves formally changing the purpose for which land is held, so that it is held for a planning purpose. However as set out above an appropriation of land held in the HRA that is or includes a 'house' requires prior consent from the Secretary of State.

"House" is given an extended statutory meaning, and includes hostels and lodging houses, as well as flats and amenity areas over which the occupiers of

the dwellings enjoy rights. The demolition of the extant eight purpose built flats therefore requires Secretary of State consent.

The Committee should note that the benefit of appropriating the land for planning purposes enables the Council to make use of the powers under section 203 of the Housing and Planning Act 2016. The effect of this is that private rights or interests, restrictive covenants affecting development sites and conservation covenants are overridden and converted into a claim for compensation. In simple terms, exercising powers under this provision protects the development from restraint by injunction.

Appropriation does not involve a sale and purchase. No transfer of title takes place. The Council in appropriating the land under Section 122 for planning purposes and needs to be satisfied that the land is no longer required for the purposes for which it is currently held and that there is a compelling case in the public interest for doing so.

As set out in the report, although the existing flats at Stanstead Road will be demolished the intention is to construct 4 houses and therefore the 'surplus to requirement test' is of less relevance, however the report identifies that the current construction is no longer suitable.

In respect of Pelham House the Committee should note that there is no statutory requirements to advertise or consult unless the land is designated as special category land, for example allotment land. The land at Pelham House is not designated as special category. Secretary of State approval and planning permission has been obtained with a formal consultation having been undertaken as part of the planning application.

The general procedural requirements are as follows:

- The decision to appropriate land is subject to judicial review.
- In deciding the purpose for the appropriation, the Council must be able to demonstrate that it has taken all the relevant considerations into account and not taken any irrelevant considerations into account.
- The Council is the sole judge of whether the land is still required for the purpose for which it is held immediately before the appropriation and its decision cannot be challenged in the absence of bad faith.

The Committee powers to approve the recommendations can be found in Part E of the Council Constitution, Delegation of Powers to Committees, Housing Committee and specifically, paragraph 3(v) The appropriation of land necessary to facilitate Council house-building schemes.

Equality

Extensive consideration has been given to s149 section of the Equality Act 2010 ('the Act') and Officers have given due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

The letting rather than the development of housing for sale is key to issues of equality. New housing developed reflects the housing priorities at the time it is conceived, is designed to mitigate against fuel poverty, be mobility friendly (with wheelchair homes included where there is demonstrable need at the time the scheme is designed); and be of a size sufficient to promote working from home and homework.

The Council has carried out an Equalities Impact Assessment to determine whether there are any groups likely to be negatively affected by the appropriation process, An Equality Impact Assessment (EIA) is appended at Appendix B.

Climate change

The new housing will need to achieve the Council's adopted target of Net Zero Carbon (operational).

Appendices

Appendix 'A' – plan indicating land subject to the appropriation process

Appendix 'B' - Equality Impact Assessment

Background papers

None

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