

Appropriation of Land for Council House Building at Wolfs Wood - Next Steps

Housing Committee Tuesday, 4 October 2022

Report of: Alison Boote, Executive Head of Communities

Purpose: For decision

Publication status: Unrestricted

Wards affected: Oxted South

Executive summary:

The Council acquires and holds land for various statutory purposes to perform its functions. It can use statutory powers of appropriation to transfer the use of land from one purpose to another.

Prior to appropriating any land, the Council must demonstrate that the land in question is not required for the purposes for which it is currently held.

Appropriating land for planning purposes allows the Council to engage statutory powers to override any third-party rights (subject to the payment of compensation) enabling development to proceed if planning permission is granted.

This report updates Members on the recent consultation for the appropriation of land at the proposed development sites at Wolfs Wood in Hurst Green and seeks approval to continue with and ultimately conclude the appropriation process at the relevant time.

This report supports the Council's priority of: Creating the homes, infrastructure and environment we need

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Recommendation to Committee:

- A. That the land at the proposed development site indicated in the plan at Appendix A, being the garage site and 106-128 (even numbers) Wolfs Wood be appropriated for planning purposes to facilitate the redevelopment of the land for the proper planning of the area and contribute to its economic, social and/or environmental wellbeing.
 - B. That the Council seeks the consent of the Secretary of State for the appropriation of housing land for planning purposes by demonstrating that the land is not required for the purposes for which it is currently held and that the use of the power of appropriation is in the public interest.
 - C. That delegated authority be provided to the Executive Head of Communities, at the appropriate time to sign a memorandum stating that the land is appropriated from planning purposes to housing.
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Reason for recommendation:

To facilitate the carrying out of development within the Council's house building programme by ensuring that the land and property in question is appropriated for the correct statutory purpose under Section 122 (1) of the Local Government Act 1972.

Introduction and background

- 1 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 beneficiaries of any rights that have been interfered with may be able to claim compensation.
- 2 The Council's Housing Committee, at its meeting on 28th September 2021 resolved that the relevant Officer commences the process of appropriating land from housing to planning purposes at 106-128 (even numbers) Wolfs Wood. Officers advised this Committee, at its meeting on 30th November 2021 that the process would be delayed until it could be run concurrently with a public consultation for the development proposal.
- 3 A public consultation at Wolfs Wood was held between 19th May and 7th June 2022. This included a drop-in at Hurst Green Community Centre on 30th May 2022.
- 4 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 then need to be appropriated back to housing land from planning purposes and the report also seeks approval for this to be completed.

- 5 Just under 70 letters were sent notifying the following residents of the Council's development plans and intention to appropriate the land at 106-128 Wolfs Wood along with the adjoining garage site from housing to planning purposes:

1-23 Hurstlands (odd numbers)

127 – 137 Pollards Oak Road (odd numbers)

68 – 156 Wolfs Wood (even numbers)

The Headteacher of Hurst Green school

The Manager of the Children's Centre

The current garage tenants at Wolfs Wood garages

Local ward members

- 6 The consultation event was also advertised on the parish council noticeboards and on the Hurst Green community Facebook page. Respondents could either attend the drop-in, view the proposals on the Council's website or make an appointment to view the proposals at the Council offices. They could respond either through completing a feedback sheet at the drop-in, or via letter or email.
- 7 There were 21 attendees at the consultation event and 11 feedback sheets were completed. The feedback sheet contained five statements and asked for respondents to tick all those that applied. The results are shown in Table 1 below. There was also a free text section for any additional comments.

Statement	Yes	No	Don't know
I think that more affordable housing is necessary for the area	5	1	0
I think that the new development will improve the area	4	2	2
I like the design and feel of the proposals	4	3	0
I don't like the proposed layout	5	2	0
I'm concerned about the increase in traffic this proposal could bring	5	1	0

Table 1

There were a further 13 emails received in response to the consultation (although four of these were from people who also completed feedback

sheets at the consultation event). The overall response rate to the public consultation was just over 25%.

Respondents' main concerns were identified as follows:

- Overlooking
- Parking
- Construction traffic
- Dust during construction
- Safety of school children
- Loss of rented garages
- Re-housing options
- Loss of green space
- Privacy, security and noise levels
- Communication throughout any development works
- Boundary treatments with adjoining land

There were a number of positive comments also received, including:

"I wish you well with this potential scheme, the sooner the area is improved the better"

"A great scheme"

"Good use of land and not overdeveloped"

"I fully support the plans"

- 7 A letter with frequently asked questions was collated and sent to all the respondents to the consultation as well as the original invitees (see Appendix B). Where concerns were raised by more than one household, responses were provided in the FAQs. However, some households raised specific questions about their own circumstances or boundaries and these will be addressed outside of this process with those residents in due course.
- 8 At the time of the inception of the scheme, the garages were in the process of being emptied following the results of a structural survey. Most of the garages at Wolfs Wood were deemed unsafe and those remaining have asbestos roofs in need of replacement. There are a small number of garage tenants remaining in the brick-built garages and the views of those garage tenants were also invited. Garage tenants who still wish to rent a garage from the Council will be offered vacancies at nearby locations.
- 9 Despite some recent and essential investment in the properties at Wolfs Wood, they were identified as stock which was poorly performing in terms of insulation, several suffering from damp and black mould and they would have been very expensive to bring to net zero carbon.
- 10 Consideration of sites such as Wolfs Wood for development arises out of a significant need for affordable housing locally which the Council has an obligation to address. The Council has a substantial waiting list for affordable housing and family sized homes.. Those households that are currently being housed from the Housing Register have a District connection and will already be living within the communities and will already be accessing local facilities such as schools, roads, shops and doctors.

- 11 The Council must consider whether, in light of the responses it has received, it should appropriate the land at Wolfs Wood for planning purposes. Many of the concerns raised by objectors are ones that would be considered and must be addressed at planning stage. Appropriating the land for planning purposes does not mean that planning approval will be granted. Any planning application will be subject to the same scrutiny as any other planning application and therefore Committee should consider whether the above responses should prevent the appropriation process from proceeding. None of the responses or comments received during the consultation exercise suggested any reason why the Council should not proceed with appropriating the land.
- 12 The feedback from the consultation was however incredibly helpful and has been discussed with the architect and employer's agent so that the Council can mitigate against concerns where possible, this may include tweaks in the design/layout or through inclusion in the contractual requirements of the build contract (e.g. measures to limit dust or to limit large vehicle movements at school drop off / pick up).
- 13 The Council has previously considered the continued use of these sites in their current usage managed in the Housing Revenue Account. Officers assessments have concluded that the site is underused or inappropriate in their current usage and can be better used to provide additional affordable housing, for which there is an acute level of need in the District.

Consultation

- 14 Ward Members have been updated regularly on the proposals for Wolfs Wood including inviting them to participate in the public consultation and attend the drop-in. Around 70 households were notified of the consultation event and it was further promoted on the parish council noticeboards and on the Hurst Green community Facebook page.

Other options considered

- 15 If the Council decided not to appropriate the land then there is the potential that third parties could bring injunction proceedings at a later date which could stop the construction of the project or delay its delivery. By exercising appropriation powers, the threat of injunction proceedings for the infringement of third party rights would be extinguished. Affected parties would still receive compensation but they will not be able to delay or stop the development.

Key implications

Comments of the Chief Finance Officer

There are no direct financial Revenue or Capital implications for the HRA in approving this appropriation of land to go ahead. The financial implications of associated developments would be subject to separate reporting.

Comments of the Head of Legal Services

The Council has statutory powers which enable the appropriation of Council owned land for planning purposes pursuant to section 122(1) of the Local Government Act 1972. This is a statutory process which may assist in situations such as set out in this report in order to secure the development of Council owned land. This is because where land is appropriated in this way easements and other rights and interest in the land can be interfered with pursuant to section 203 of the Housing and Planning Act 2016 where they would otherwise be an impediment to development.

The Council when appropriating land for planning purposes needs to be satisfied that it will facilitate the carrying out of development, redevelopment or improvement on or in relation to land and that it is likely to contribute to the achievement of namely the promotion or improvement of the economic, social or environmental well-being of the whole part of its area and that there is a compelling case in the public interest for doing so.

Should any claim be made as a consequence of invoking Section 203 of the Town & Country Planning Act 1990 the compensation under section 204 of the Housing and Planning 2016 is assessed on the basis of the loss in value of the land that had the benefit of those rights as a consequence of the interference or breach.

Equality

The Council's House Building Programme aims to contribute significantly to making decent and affordable homes accessible to all our residents and are designed to mitigate against fuel poverty, be mobility friendly and be of sufficient size to promote working from home.

There is no evidence to suggest that the appropriation of any of the identified land will have a disproportionate adverse impact on those with protected characteristics. Indeed, the anticipated impact on affected parties is expected to be minimal as property owners and occupiers will continue to be able to enjoy their property in the same manner as they do at present: all properties will continue to be accessible through the works and thereafter upon their completion. The Council is satisfied that the development would strengthen the vitality and viability of the area and the appropriation of the Council's land would not have any negative impacts on equality and diversity.

Climate change

At its meeting on 17th September 2020, Housing Committee resolved to adopt new standards of construction in the Council's House Building Programme so as to deliver Council homes that are operationally net zero carbon. The new standards are to be piloted at Windmill Close and Auckland Road (both sites

currently under construction) with a view to rolling them out to all new Council homes for construction.

Appendices

Appendix 'A' – plan indicating land subject to the appropriation process outlined in the relevant sections of the report.

Appendix 'B' – Wolfs Wood Public Consultation – Frequently Asked Questions

Background papers

None

----- end of report -----

Appendix A

Land at Wolfs Wood



Appendix B

Frequently Asked Questions

<p>1. Will construction work be carried out on Saturdays? (1 question)</p>	<p>This is a possibility. The Planning Authority advises that acceptable hours for noisy work from construction can include 8am to 1pm on Saturdays. However, on TDC development schemes we try and limit working days to Monday-Friday where possible and works can only take place on a Saturday morning where TDC have given specific approval.</p>
<p>2. What are the site working hours? (3 questions)</p>	<p>Working hours will be restricted to 8am to 6pm Mon to Fri although in practice most sites finish work between 4-5pm. However, the contract will also include a requirement to schedule large deliveries and heavy works traffic outside of the drop off and pick up times of the school.</p>
<p>3. Will any damages to kerbs and verges during construction be made good again afterwards? (4 questions)</p>	<p>Yes. Before work starts we will prepare a schedule of condition of all the verges, kerbs, and this will include a photographic record. The contractor will be responsible for making good any damages to roads, footpaths and services underneath or adjoining, whether on public or private land, if caused by the contractor or their subcontractor.</p>
<p>4. Will any damage to private fences and property be made good afterwards? (2 questions)</p>	<p>Yes, as above. The contractor will be responsible for making good any damages, whether on private or public land, if it is caused by them or their sub-contractor.</p>
<p>5. Will alternative garages be offered to the garage tenants at Wolfs Wood? (1 question)</p>	<p>Yes, although there may be a waiting list for some of our other garage sites we will do our best to offer you an alternative garage at a nearby location. If you are interested in renting another garage you should email: ECordovaGuerrero@tandridge.gov.uk or ring the Council on 01883 722 000 and ask for Emma Cordova Guerrero.</p>
<p>6. Did the Council remove garage doors and lintels to make them look worse? (1 question)</p>	<p>No. When a decision has been taken to redevelop a garage site, the doors in good condition may sometimes be removed and used as replacements elsewhere in the district. The issue with the garage site at Wolfs Wood relates mainly to the garages of concrete construction. These were inspected in 2018 and identified as too costly to repair. Many of the pre-cast concrete components were breaking up and this exposes the reinforcing bars within which causes them to rust (and makes it worse). The concrete components are</p>

	<p>old and no longer available to buy for repairs. Because the garages are interlocking, they rely upon each other for structural stability. The garages were therefore vacated on health and safety grounds and the site was put forward as having development potential. The brick garages do not have the same problems but they have been identified as also having asbestos roofs which will require replacement.</p>
<p>7. How will traffic, including construction traffic be managed during the building work and where is everyone going to park? (11 questions)</p>	<p>The contractor is required to manage the works with minimum disturbance to members of the public and neighbours, particularly in respect to construction traffic, noise and dust and keeping the highway clear of mud at the end of each working day.</p> <p>A CTMP (Construction Transport Management Plan) will need to be submitted and approved by a planning officer. This is a detailed plan that identifies hazards and sets out particular controls so that the movement of vehicles and pedestrians on a construction site is managed and coordinated. This will typically include:</p> <ul style="list-style-type: none"> • Parking for vehicles of site personnel, operatives and visitors • Loading and unloading of plant and materials • Storage of plant and materials • Vehicle routing • Measures to prevent the deposit of materials on the highway <p>Contractor vehicles will need to be accommodated on the site and they will not be permitted to park in residential spaces preventing you from parking outside your homes.</p> <p>As part of the works we are also considering providing dropped kerbs and off-road parking for properties in very close proximity to the development site.</p>
<p>8. Who was invited to the public consultation? (2 questions)</p>	<p>Residents of 1-23 Hurstlands (odd numbers) Residents of 127 – 137 Pollards Oak Road (odd numbers) Residents of 68 – 156 Wolfs Wood (even numbers) The Headteacher of Hurst Green school The Manager of the Children’s Centre The current garage tenants at Wolfs Wood garages Local ward members</p>

<p>9. Why have the residents from the flats already been re-housed when planning has not been approved? (1 question)</p>	<p>On previous developments the Council has waited until planning approval is received before decanting existing residents. However, this leads to prolonged periods of uncertainty for the residents. In addition, some of the flats required money to be spent on them quite urgently and so the decision was therefore taken to allow residents to bid for alternative accommodation once they were formally told about the plans.</p>
<p>10. How is the development being funded and can the Council afford it? (2 questions)</p>	<p>The Council's house building programme is funded through a combination of income from rents, Right to Buy receipts and low interest loans available to public sector organisations. It may also be possible to get Homes England grants in the future. It is not funded from council tax.</p>
<p>11. Who will own the finished scheme? (2 questions)</p>	<p>The homes will be owned by Tandridge District Council and allocated to households on our housing register.</p>
<p>12. When and how will residents be told when construction work will be happening? (2 questions)</p>	<p>If planning is approved, the Council will appoint a contractor who will contact residents and introduce themselves. They will give names and contact numbers for the site management and are required to provide newsletters to residents to let you know what works are happening when and any other information that they think will be useful for you to know. We can request that they communicate in advance about particularly noisy and intrusive works including the demolition of the existing garage blocks.</p>
<p>13. The drawings show hedges around the car park. What type will they be and who is responsible for maintaining them? (1 question)</p>	<p>It is too early to say at this stage, but a landscape contractor will be consulted for advice. The contractor will be required to produce a landscape plan which will include the detailed planting proposed. The contractor is usually responsible for the maintenance of the landscaping for the first 12 months following completion and then the responsibility passes to the Council.</p>
<p>14. Are the new houses on the same footprint as the existing dwellings? (1 question)</p>	<p>No, in some cases the new buildings may be slightly closer to existing boundaries. This is to make best use of the land available, maximise the parking that we can create on the site, retain as many existing trees as possible and avoid the root protection zones of those trees.</p>
<p>15. What about overlooking? (3 questions)</p>	<p>The designs meet planning requirements in relation to minimum distances and overlooking. Overlooking has been kept to a minimum by</p>

	designing the internal layouts so the windows closest to existing boundaries are secondary windows i.e. bathrooms, bedrooms, kitchens etc
16. What will the boundary treatment be, and will my boundary be left open at any time? (2 questions)	Generally, our boundary treatments tend to be 1.8m close boarded fencing, using concrete gravel boards and concrete posts. The contractor will be asked to programme the boundary fence installation early in the construction process. When the garages are demolished the boundaries will be protected immediately using Heras fencing and the new fences will be installed asap after.