

CABINET

14 JANUARY 2020

LAND AT EASTCOURT LANE AND WOODCHURCH GREEN, TWYDALL, FOR PROPOSED RESIDENTIAL USE

Portfolio Holder: Councillor Howard Doe, Deputy Leader and Portfolio Holder, Housing and Community Services
Councillor Adrian Gulvin, Portfolio Holder for Resources

Report from: Richard Hicks, Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive

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Summary

This report seeks Cabinet approval to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the Deputy Leader and Portfolio Holder for Housing and Community Services and Portfolio Holder for Resources, to appropriate two areas of land, one at Eastcourt Lane, Gillingham and the other at Woodchurch Green, Gillingham, subject to planning permission.

1. Budget and Policy Framework

1.1 In accordance with the Constitution, Cabinet authority is required to appropriate land.

2. Background

2.1 The above Council owned sites (as shown edged red on the attached plans, Appendix 1 and Appendix 2) are required for the delivery of the HRA Phase 4 housing schemes. The Council has a housing register identifying over 1,775 families in need of a Council house. The HRA team is identifying sites to help meet the demand for affordable housing in Medway. Four sites have been identified and these will form the HRA's phase 4 development programme. Two of these sites are currently areas of green space at Eastcourt Lane (MC/19/3106) and Woodchurch Green (MC/19/3107), which will need to be appropriated to the HRA before they can be used for the development of housing. The other two sites are garage sites, Brabourne Avenue

(MC/19/3105) and Lynsted Road (MC/19/3104), Gillingham which are already within HRA ownership. The development of the land at Eastcourt Lane and Woodchurch Green would increase the HRA housing stock and help address the shortfall of affordable housing.

- 2.2 The land at Eastcourt Lane is currently being used as an open green amenity area. The land at Woodchurch Green is also an amenity area with a play area. It will therefore be necessary to appropriate the land to the HRA before using it as a development site.
- 2.3 The Council will be required to advertise the proposed appropriation of the two areas of land in the local press in accordance with section 122 (2A) of the Local Government Act 1972 and to consider any objections before proceeding with the appropriations.
- 2.4 The planning proposals for the Woodchurch Green site facilitate an upgrade of the current play area, with residential bungalows adjacent and a proportion of open space being retained on site.
- 2.5 The Council has the general power under section 122 of the Local Government Act 1972 to appropriate land within its ownership for any purpose for which it is authorised to acquire land by agreement.
- 2.6 Where land is appropriated for planning purposes, section 237 of the Town and Country Planning Act 1990 ("TCPA") provides that the development of that land is permitted even if it overrides third party rights enjoyed over that land, subject to the right of the beneficiaries of such rights to compensation.
- 2.7 Following appropriation, the Council can, subject to planning permission, develop the sites to help meet the housing need in the area. Planning applications for the development of these sites were submitted in November 2019. Subject to Cabinet agreement to the recommendation within this report, the land will not be appropriated until if and when planning permission has been granted for the development of land.

3. Options

- 3.1 Option 1 – agree to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the relevant Portfolio Holders, to appropriate the land at Eastcourt Lane and Woodchurch Green, subject to planning consent, to bring forward the HRA Phase 4 development sites.
- 3.2 Option 2 – Do not approve the appropriation of the land at both of the sites to bring forward the HRA Phase 4 development.

4. Advice and Analysis

- 4.1 It is considered that using this land to facilitate housing for the HRA and appropriating this for development is the best option (option 1). Option 1 will

enable the delivery of further housing stock, whereas option 2 will prevent the delivery of housing on these sites. Multiple alternative sites within the Council's ownership, have been investigated to facilitate housing, however many of these sites were considered unviable.

5. Risk Management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Appropriation of the open space is not approved.	The Council cannot develop the sites to provide HRA housing. Other sites have been investigated and have been considered unviable.	Appropriate the land.	B2
Appropriation is not approved and if planning permission is granted this cannot be implemented.	The Council will not be able to deliver housing stock on these sites. Other sites have been investigated and have been deemed unviable	Appropriate the land.	B2
Appropriation of land.	The decision to develop the sites, pending planning permission has had a mixed public response.	Where possible the proposed developments have taken into consideration residents' comments	B2

6. Consultation

- 6.1 Public engagement events were undertaken in September 2019 to inform residents and take forward comments, where appropriate. Pre application advice has also been sought, comments raised have been addressed in the planning applications submitted.

7. Financial and legal implications

- 7.1 In accordance with the Constitution, any decision to appropriate land needs to be approved by Cabinet.
- 7.2 Section 122 of the Local Government Act 1972 enables the Council to appropriate land from one purpose to another if immediately before the

appropriation, the land is no longer required for the purpose for which it is held.

- 7.3 Section 226 of the TCPA provides that a Council may acquire or appropriate land for planning purposes, if it thinks that this will facilitate the carrying out of development, re-development or improvement on or in relation to the land which is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of their area.
- 7.4 Once an appropriation has taken place, section 233 of the TCPA enables the Council to use the appropriated land for planning purposes, in such a manner and subject to such conditions as appear to it to be expedient in order to secure the best use of the land. This includes the erection, construction or carrying out on it of any buildings or works appearing to it to be needed for the proper planning of the area.
- 7.5 Provided that a site has been validly appropriated for planning purposes, then under Section 237 of the TCPA, the erection, construction or carrying out or maintenance of any building or work on land which has been acquired or appropriated (by the Council or any person deriving title from the Council) is authorised if done in accordance with planning permission.
- 7.5.1 On 19 November 2019, the Cabinet recommended to Full Council that the capital programme be increased by £4.1 million for the HRA new Build Phase IV as set out in paragraph 3.11 of the Capital Budget Monitoring 2019/20 – Round 2 report, to be funded 70% from borrowing and 30% from ‘Right to Buy’ capital receipts in line with the existing scheme (decision no. 143/2019 refers). Full Council will consider and determine this recommendation on 23 January 2020. Appropriation of the land is subject to approval of this capital addition.

8. Recommendations

- 8.1 The Cabinet is asked to agree to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the Deputy Leader and Portfolio Holder for Housing and Community Services and the Portfolio Holder for Resources to:
- (i) Advertise the proposed appropriation of the land at Eastcourt Lane, Gillingham and Woodchurch Green, Gillingham, as shown edged red on the plans attached at Appendices 1 and 2 to the report respectively, to the HRA.
 - (ii) Consider any objections to the proposal and determine whether or not to appropriate the land at Eastcourt Lane, Gillingham and Woodchurch Green, Gillingham as shown edged red on the plans attached at Appendices 1 and 2 to the report, so that the land can be used for residential use, subject to planning permission being obtained for this purpose.

- (iii) Once planning consent has been obtained for housing on the land to appropriate the land to the HRA.

9. Suggested reasons for decisions

- 9.1 The appropriation of the land will allow the Council to help meet its housing targets and address the need for affordable homes for those on the housing register.

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Appendices

Appendix 1 – Eastcourt Lane site plan
Appendix 2 – Woodchurch Green site plan

Background papers

Cabinet 19 November 2019, Capital Budget Monitoring Report 2019/20 – Round 2:
<https://democracy.medway.gov.uk/ielIssueDetails.aspx?Id=26265&Opt=3>

Planning application, MC/19/3106 <https://publicaccess1.medway.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Planning application, MC/19/3107 <https://publicaccess1.medway.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Planning application, MC/19/3105 <https://publicaccess1.medway.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Planning application, MC/19/3104 <https://publicaccess1.medway.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>