

**LBH BRITANNIA PHASE 2a -- APPROPRIATION OF LAND FOR PLANNING PURPOSES**

**Key Decision No. FCR Q77**

**CABINET MEETING DATE**  
(2021/22)  
19 July 2021

**CLASSIFICATION:**  
**OPEN**

**WARD(S) AFFECTED**  
Hoxton East & Shoreditch

**CABINET MEMBERS**

**Councillor Nicholson**  
Deputy Mayor and Cabinet Member for Housing Supply, Planning, Culture and Inclusive Economy

**KEY DECISION**

Yes

**REASON**

Spending or savings.

**Ian Williams, Acting Chief Executive and Section 151 Officer**

**1. CABINET MEMBER INTRODUCTION**

1.1 The Council has invested heavily in providing excellent housing, schools and leisure facilities within the borough in the past decade. While central government funding has decreased significantly since 2010, the Council's own investment programmes have ensured that public infrastructure in the borough has been augmented where possible. Hackney's continued investment in housing, schools and leisure facilities, as well as a spectrum of other services, demonstrates both the Council's commitment and its corporate capacity to deliver ambitious, large scale investment programmes to address local priorities.

1.2 The Council is determined to build on this success by delivering an ambitious regeneration programme focused on creating public infrastructure that will directly benefit local residents. Our developments at Britannia seek to continue the mixed use model, with the Council acting as developer and retaining the freehold for the land involved.

1.3 The Britannia development will provide a new Leisure Centre for the Britannia site, opening in June 2021; a new secondary school (which is already open on a temporary site) to meet the demand for additional school places in the borough, which will open its doors to pupils at its permanent site in June 2021. Britannia will also deliver over 400 homes, including on site council housing to rent.

1.4 This project continues the Council's commitment in 2016 to invest in providing new homes (including genuinely affordable council homes), schools, and council leisure facilities within the borough, and responds specifically to existing and expected population growth, rightly increasing resident expectations, and the age and condition of some existing leisure facilities. As well as the previous Cabinet approvals, the rebuilding of the Britannia Leisure Centre and the delivery of the new school, council homes and community infrastructure also formed a key part of our manifesto in 2018.

1.5 Across all our new developments we are committed to maximising the number of genuinely affordable council homes. Britannia Phase 2a is comprised of 93 new homes, including 48 for social rent, 33 for shared ownership and 12 for outright sale. The Council's Estate Regeneration team is taking forward the delivery of this part of the Britannia Scheme to continue to build on the success of the Regeneration programme. The completed scheme will be managed by Housing Services.

1.6 The design for the Britannia masterplan was informed by extensive consultation with local residents, stakeholders, the Greater London Authority, and departments within the Council, in order to arrive at a design which incorporated maximum community benefit through the provision of the new secondary school, a new leisure centre, as well as 81 genuinely affordable homes. Consultation took place from December 2016 to February 2017 (initial concepts stage) and April 2017 until February/March 2018 (design development and detailed design/pre-planning stage).

1.7 Cabinet considered and approved proposals to develop the Britannia Leisure Centre site in April and December 2017, and the Procurement Strategy for Phase 2a in September 2019. Cabinet Procurement Committee approved the proposed early works contract for Phase 2a in March 2020.

1.8 This report is to consider the appropriation of land for planning purposes to facilitate the delivery of phase 2a of the project (93 new homes including 81 affordable homes and 12 for private sale in two blocks, with a

ground floor Early Years facility for Shoreditch Park Primary School ) subject to the consideration and approval of the Council's application to the Secretary of State under Section 77 of the Schools Standards & Framework Act (1998) to dispose of a portion of the school playing field at Shoreditch Park Primary School. It is expected (subject to approval of the Section 77 application with the SoS) that works will start on the main scheme in July 2021.

1.9 In order to enable and safeguard the delivery of the phase 2a project, and in line with the Council's statutory powers, this appropriation considers the social, environmental, and economic benefit of such an appropriation. I commend this report to Cabinet, as a key milestone required to deliver the objectives of the Britannia masterplan.

## **2. GROUP DIRECTOR INTRODUCTION**

2.1 The Britannia project is one of the largest mixed-use schemes which the Council has embarked upon as developer. The project will deliver much needed social infrastructure and contribute to an improvement in social, environmental, and economic well-being within the local area.

2.2 The project secured planning permission on 7 December 2018. The first phase of development, currently on site, is delivering the new Council leisure centre and secondary school on the site of the existing leisure centre. By delivering the new Council leisure centre, the project is able to unlock the rest of the existing leisure centre site for market sale development. This is key to the financial business case and enables the cross-subsidy required to pay for the new social infrastructure. As developer, the Council is able to prioritise the social infrastructure and affordable housing. It is also able to ensure that the maximum benefit of the market sale income is channelled into tangible benefits for the area.

2.3 In order to commence the delivery of the next stage of development, Phase 2a, the Council needs to formally consider the case to appropriate the land for planning purposes. This report considers a series of tests and sets out the argument for supporting this appropriation of the land required to deliver Phase 2a of the project.

## **3. RECOMMENDATION(S)**

**Cabinet is requested to:**

**3.1 Agree to the appropriation for planning purposes under Section 122 of the Local Government Act 1972 of land relating to Phase 2a of the LBH Britannia project, subject to the Secretary of State for Education's approval of the application under Section 77 of the Schools Standards and Framework Act (1998) to dispose of a portion of the school playing field at Shoreditch Park Primary School as shown on the plan at Appendix 1.**

**3.2 Authorise the Group Director Finance and Corporate Resources and the Director of Legal & Governance to deal with all necessary arrangements to effect the appropriation set out in this report subject to the approval of the Secretary of State as part of the S77 Application of the School Standards and Framework Act (1998).**

**3.3 Authorise the Group Director Finance and Corporate Resources and the Director of Legal & Governance to deal with any conditions, if provided for by the Secretary of State, relating to the Section 77 Application of the School Standards and Framework Act ( 1998)**

#### **4. REASONS FOR DECISION**

##### **Legislative context**

4.1 Appropriation of land for planning purposes under Section 122 of the Local Government Act 1972 allows the Council to hold land for any statutory purpose where the land is no longer required for the purposes for which it is currently held. It is for the local authority to determine whether the land is no longer required for the purpose for which it is held. Section 203 of the Housing and Planning Act 2016 provides a statutory power for the Council to override third party easements and other rights. This will apply to building or other works to be constructed or maintained on the land or future uses where these are in accordance with a planning permission for the development of the land. Therefore a mechanism for helping minimise the delay or uncertainty associated with regeneration projects ensuring that the proposed development cannot be held up by injunctions in support of third party rights .

4.2 Finally, in order to appropriate the Land the Council must also be satisfied that the requirements in Section 226(1)(a) of the Town and Country Planning Act 1990 (the Planning Act) have been met. This is the legislative provision under which the Council may exercise its powers of appropriation where the land is required for planning purposes in order to facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. The Council must be satisfied that the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area.

4.3 As the site currently includes part of Shoreditch Park Primary School the consent of the Secretary of State is required under S77 of the School

Standards and Framework Act 1988 (SSFA1998) . A S77 (SSFA 1998) application was made on the 24th of March 2020. Appropriation is subject to Secretary of State Consent Approval.

### **Appropriation of General Fund land to land held for planning purposes**

4.4 The land identified as part of Phase 2a of the LBH Britannia project, as shown at Appendix 1, is currently held by the General Fund as a school site. This land comprises the land outlined in red and is playing field land within the site of Shoreditch Park Primary School. Part of this land was occupied by a temporary building comprising the former Anthology marketing suite for the Hoxton Press towers adjacent to this site. This building is no longer used for this purpose and in March 2020 Cabinet Procurement Committee approved an award of contract for early works on this site, which included the demolition of this building.

4.5 Appropriation of the site for planning purposes does not require a formal consultation. The Council is, however, required to formally consult under the requirements of the Section 77 of the Schools Standards & Framework Act (1998) application for Disposal of School Playing Fields.

4.6 A public consultation ran from 17 December 2019 to 21 February 2020, Letters were distributed to the local area via door-to-door delivery service. This included 1050 properties within a half mile radius of Shoreditch Park Primary School. This included the Colville Estate, Hobbs Place, Clinger Court, Hemsworth Court, Wiltshire Row, Gospall Street and Mawson Court properties. The letters outlined the proposal to use the school land, the consultation timelines and detailed how to provide feedback. Letters were also issued to the school to be distributed to parents on 7th January 2020. The consultation also featured on the homepage of the Council's consultation and engagement platform. Responses took the form of an online survey on Citizen Space. The survey page contained information about the consultation and included a map of the school land to be disposed of.

4.7 As stipulated in the obligations and duties of Section 77 of the Schools Standards & Framework Act (1998), the Secretary of State requires the council to consult local primary and secondary schools in a 0.5 mile and 1 mile radius, respectively. A letter was issued to each school (17.12.19) and followed up via email reminder to respond to the consultation. Only 1 response was received by the contacted schools, other than Shoreditch Park Primary School. This school responded to say 'we wouldn't use that land if it was not lost'.

4.8 A total of 644 respondents took part in the consultation. However, information came to light that a software application had been used to run automated responses to the consultation. Investigations by the consultation team and the consultation platform provider, Citizenspace, uncovered that 547 responses had originated from one IP address with a clear sequencing

pattern in terms of how quickly and consecutively the responses have been submitted.

4.9 Fictitious emails had also been used to fill out the survey as had emails without the knowledge or permission of the owner. The Council also received complaints from the email owners that they had not taken part in the consultation. A further 14 responses were also received from one IP address similar to above. Extracting the data anomalies results in 85 respondents to the consultation. The data for the total responses can be found in the final consultation report at Appendix 2.

4.10 Key issues related to:

- Objections to proposed housing on the site;
  - Disruption of construction projects/building to the local area;
  - Other local developments, including other phases of the Britannia Leisure Centre ; and
  - General comments such as traffic, change in the area, impact on Shoreditch Park, housing costs.

However, these comments focused primarily on issues not related to the disposal of school land, rather ongoing issues about development in the area dealt with through the planning application.

4.11 Valid objections, those relating to the land appropriation itself, included:

- Impact of any future development on health and wellbeing and educational attainment of pupils at the school; and
- Loss of school land such as playspace and football pitch.

4.12 These were concerns that officers were already aware of and have been working, with Shoreditch Park Primary School, to identify steps that can be taken to mitigate these.

4.13 The Education property department has worked closely with the school over the last 3 years and the Council has committed significant investment into the school site and adjacent play area to mitigate this loss. The improvements to the school site as a consequence of the development are extensive, the overall net loss of play space will be 85sqm and the school will benefit from much improved PE and sports facilities including a new ball court adjacent to the school site which is currently being refurbished, together with significant improvements to the rest of the school building and site. As the area being lost includes a grass area banking down to a sunken tarmac playground which is not suitable for sport, the intention is that the mitigation measures proposed will provide a better quality, more usable space for the school.

4.14 The Council has made a formal commitment to the school to ensure :

- that Shoreditch Park Primary School is in a stronger position in terms of its buildings and playgrounds by September 2022 than it is currently
- to support the school effectively, to maintain quality of provision, in a range of ways during the building work taking place over the coming period
- to ensure council input re the building works and Britannia Development is effectively coordinated with the school and well communicated to the school and its stakeholders. The needs of the school in the project are clearly articulated.

4.15 The works which are intended to take place to bring forward Phase 2a have been programmed to minimise disruption to the Shoreditch Park Primary School, including carrying out particularly noisy and disruptive elements of work during the school holiday periods. The main contractor is due to start sheet piling work on site on 20th July 2020, subject to the S77 application outcome. Site restrictions will be imposed on deliveries and noisy works to control the noise impact. The sensitivity of contractors to the surrounding community (particularly the School, as well as residents) has been a key element that has been tested through the procurement process, and tender documentation have made it clear to the contractors tendering on the works that they too will be required to engage in a proactive and sensitive manner with the school. Dust suppression measures will be implemented to control dust, and all contractors will comply with the Considerate Constructors Scheme.

### **Project Delivery**

4.16 Project Overview. The LBH Britannia project will deliver a new school, Council owned leisure centre, and 481 new homes on the site of the existing Britannia Leisure Centre (including hard courts on Shoreditch Park), and an area of education land on the corner of Bridport Place and Penn Street, currently part of Shoreditch Park Primary School. The project will also deliver new and enhanced public realm to Shoreditch Park, including areas of Designated Open Space and Open Space.

The project is being delivered in four phases:

**Phase 1** (the new Council leisure centre and new school) projects are now under construction

**Phase 1a** – the new Council leisure centre on the site of the existing Britannia Leisure Centre hard courts on Shoreditch Park (including associated infrastructure and external works), demolition of the existing Britannia Leisure Centre, and delivery of the second stage of the new school's playground. This

phase is in construction with an estimated completion date of March 2021, the new leisure centre will be operational in Spring 2021 and the old leisure centre will be demolished on completion of the new one.

**Phase 1b** – the new Secondary School on part of the site of the existing Britannia Leisure Centre (including associated infrastructure and external works). The new School is expected to be complete by May 2021, in time to open for the 2021/22 Academic Year. The City of London Shoreditch Academy will move directly from their off-site temporary premises on completion of the new school buildings. They will be granted a new 125-year lease at a peppercorn rent under the provisions in Schedule 14 of the Education Act 2011 and Schedule 1 to the Academies Act 2010. Note that the new school playground will be delivered in three stages (across Phases 1a, 1b, and 2b), as land becomes available through the build out of the masterplan.

**Phase 2a** – 93 new homes (including 81 affordable homes and 12 for private sale) in two blocks, with a ground floor Early Years facility for Shoreditch Park Primary School (SPPS) on land at the corner of Penn Street and Bridport Place (currently forming part of Shoreditch Park Primary School). This phase is expected to start on site in the summer 2020 (subject to the S77 application and land appropriation) and is programmed to reach Practical Completion in autumn 2022, with the Early Years Centre reaching completion in summer 2020. It is Phase 2a that this land appropriation report relates to.

**Phase 2b** – 388 new private for sale homes and 2 commercial/retail units on the site of the existing Britannia Leisure Centre building. The delivery of the third and final stage of the new school's playground. The second phase of the project – which has outline planning permission for the scale and principles of the development, but will require a further planning application to agree areas like the appearance and internal layout of buildings and landscaping – would see 388 homes for outright sale built to help pay for the leisure centre, school and genuinely affordable homes. Further information about this phase will be released in due course.

4.17 The Britannia Project requires three separate land appropriations to be approved by Cabinet:

**Appropriation 1** - for Phase 1 was approved in January 2019. This included the land associated with the delivery of the new secondary school building and the new leisure centre building on Shoreditch Park.

**Appropriation 2** - the subject of this Cabinet Report, is the land associated with Phase 2a of the project, subject to receipt of Secretary of State consent to the disposal of school land within Shoreditch Park Primary School. This consent is required under s77 of the School Standards and Framework Act 1998 for the disposal of the land within that part of the school site.



**Appropriation 3** – Land associated with Phase 2b of the project, including the demolition of the existing leisure centre (once the new leisure centre is built), delivery of the second stage of the new school’s playground, and the build out of the Phase 2b residential project on approval of the reserved matters (including the third and final stage of the secondary school playground).

4.18 Planning Status. The LBH Britannia project secured planning approval on 7 December 2018, following consideration by the planning sub-committee on 7 November 2018, and GLA’s Stage 2 review on 26 November 2018. This hybrid planning application, secured detailed planning for Phase 1 and Phase 2a (93 homes, including 81 affordable homes), with outline permission subject to Reserved Matters in relation to Phase 2b (the remaining 388 private for sale homes).

### **Contribution to Social, Environmental, and Economic Well-Being**

4.19 Social well-being. The primary aim of the Britannia project is to deliver a new school and Council leisure centre in the absence of sufficient Central Government funding. The masterplan also brings forward 81 genuinely affordable and high quality homes to help meet Hackney’s housing need, with a further 400 homes delivered to help pay for the affordable homes and the much needed new social infrastructure.

4.20 In addition to the primary social benefits noted above, the development will more generally contribute to environmental and social well-being in the area through the following:

a. BREEAM Excellent is targeted for the secondary school and leisure centre. This ensures that the buildings are low energy and water efficient with good thermal comfort and daylighting. The scheme also ensures that all materials are responsibly sourced and construction activities are considerate of local residents.

b. The energy performance of all residential and non-residential buildings complies with the GLA London Plan and Hackney requirements to achieve a 35% reduction in CO2 emissions compared to Building Regulation requirements.

c. The land use and ecology initiatives aim to ensure that the long-term biodiversity of the masterplan is enriched through a resilient planting and habitat management strategy, connecting people with nature. Long term effects of this approach are reduced stress, lower blood pressure, improved education and learning opportunities.

d. Health and well-being is enhanced by the leisure centre, as well as walking and cycling routes in the public realm ensuring that people living and working in and around the scheme can be active and connect with nature.

Tree species have been selected to improve air quality and provide shade, improving the local micro-climate.

e. In terms of culture and community, the public square, new school and Council leisure centre provide excellent opportunities to promote learning and new enterprises as well as local events that will enable people to stay engaged with one another.

4.21 From a technical perspective, due to the scale of the Britannia project, an Environmental Impact Assessment (EIA) was required as part of the planning process. Following an EIA Scoping exercise, the EIA considered and reported on the following topics: Socio-economics; Highways and Transport; Air Quality; Noise and Vibration; Daylight, Sunlight, Overshadowing and Light Pollution; Wind Microclimate; Townscape and Visual Impact Built Heritage; and Effect Interactions. The conclusions of this study summarise the social, environmental, and economic benefits of the development as follows:

*'The EIA process has demonstrated that once the Proposed Development is fully complete and occupied, likely significant beneficial effects relate to the provision of housing, residential spending, the provision of the new school on secondary education and post-16 education; as well as beneficial effects on pedestrians and cyclists on delay, amenity, fear and intimidation, and some thoroughfares having better wind conditions than required for use; and a beneficial effect on the townscape character area in which the site is found, creating a more coherent and legible townscape with a more enhanced sense of place.'*

### **Financing and Viability**

4.22 Project Financing and Viability. The strategic and financial business case for the masterplan was approved by Cabinet in April 2017. The cost of the new social infrastructure will be subsidised by the delivery of the new private for sale homes in Phase 2 of the project. In addition to this income, the Council has committed to contribute £41.8m to the overall development and the Department for Education £21.8m towards the cost of the new school.

4.23 Cabinet was updated on the financial business case for the Britannia masterplan in September 2019. As at the date of that report, the estimated Council contribution was £45.336m which given the timescales of the masterplan programme and the number of variables involved was still in line with the April 2017 business case. A further update of the financial business case is proposed in the coming months.

4.24 Usually, the commercial 'viability' of a scheme will be judged on whether the value when completed is greater than the cost of building it, and private developers will also usually factor in a desire for 20-25% profit on top. However, whether something is commercially 'viable' in planning terms does not measure whether it is worthwhile. With the Britannia project, the Council

is acting as developer and its priority is not to make a profit, but to find the most cost-effective way to deliver the much-needed new Council leisure centre, school, affordable housing and other public facilities. The Council views its contribution as being worthwhile due to the benefits the project will bring to Hackney residents.

4.25 In addition, the financial business case as set out in April 2017 still remains the case, i.e. that the overall cost to the Council of delivering the social infrastructure through cross subsidy generated from the self-delivery of private for sale homes is less than would be required if the social infrastructure was delivered as a stand-alone capital project (at a total estimated project cost of circa £120-130m).

### **Impediments**

4.26 Project Constraints. There are a number of constraints which have been taken into account in the design and delivery proposals for the LBH Britannia masterplan. Each of these has been designed in to the scheme and consulted upon as part of the planning process. None are considered an impediment to delivery. These include:

- a. The need to deliver a new 940 pupil secondary school to provide permanent school places for the new City of London Academy Shoreditch Park (CoLASP), which opened in a temporary site in Haggerston Park in September 2017
- b. The need to keep the existing Britannia Leisure centre operational until the new leisure centre is ready
- c. The need to deliver at least 80 affordable homes as part of the development
- d. The need to deliver no more than 400 private for sale homes as part of the development
- e. The need to take account of safeguarding zones in relation to the proposed Crossrail 2 tunnels, which cross the masterplan site
- f. The need to take account of Thames Water diversion and build over requirements in relation to a deep storm relief sewer which crosses under the site

## **5. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

5.1 The Cabinet report in April 2017 set out the options available to the Council in order to meet the strategic need for a new school and replacement Council leisure centre in the absence of sufficient Central Government funding and the availability of alternate sites. Following endorsement of the project's strategic business case and proposals for the Britannia project at this meeting, the 'do nothing' option was discounted.

5.2 Cabinet approved the procurement strategy for Phase 2a of the project in September 2019.

## **6. BACKGROUND**

### **Policy Context**

6.1 This project is integral to the Council's commitment to provide excellent housing, schools, and leisure facilities within the Borough.

6.2 As set out in paragraph 5, Cabinet has considered and endorsed the delivery of the LBH Britannia project on the site of the existing Britannia Leisure Centre (including hard courts within Shoreditch Park) and education land currently part of Shoreditch Park Primary School on two previous occasions (April 2017 and December 2017).

6.3 Cabinet at the meeting on the 19th April 2017, fully endorsed the strategic business case in relation to the Britannia development, recognising its contribution to a number of manifesto commitments.

6.4 Cabinet endorsed the procurement strategy for the Britannia project on 18 December 2017. Cabinet awarded the contract for Phase 1a on 25 March 2019 and 1b on 29 April 2019.

6.5 Phase 1a works for the delivery of the new leisure centre started on site on 7 May 2019 and are due to complete on 29 March 2021. The centre will be operational at the end of May and the demolition works of the old building will complete in late 2021.

6.6 Phase 1b for the delivery of the new secondary school started on site on 3 June 2019 and are due to complete on 17 May 2021, this will include the first section of the playground. The school building will be operational by June 2021 with the completion of the second section of the playground by October 2021.

6.7 The Phase 2a Procurement strategy was approved by Cabinet in September 2019; the award of contract for the Early Works was approved by Cabinet Procurement Committee in March 2020;

6.8 The award of contract for Phase 2a main works contract report (and permission to demolish the existing leisure centre) is programmed for the Cabinet meeting in July 2020. This piling is expected to start on site in the summer 2021 (subject to the S77 application and land appropriation) and construction work is programmed to reach Practical Completion in autumn 2023, with the Early Years Centre reaching completion in summer 2023.

6.9 This appropriation can only be formalised if the application for the disposal of school playing fields in relation to this site under Section 77 of the School Standards and Framework Act 1998 is approved by the Secretary of State. An application under Section 77 for the disposal of the playing fields within that part of the school site was made on 24 March 2020. The DfE has advised that these applications can take considerable time to be considered however a decision is anticipated before the summer holidays. If approved ahead of the summer holidays, the initial piling work for Phase 2a can be undertaken during the summer holidays in order to minimise disruption to the school.

6.10 Relevant Cabinet Reports and decisions are:

- Cabinet Report 19 April 2017, titled, “Capital Programme – Leisure and Education Strategy for Mixed Use Provision on the Britannia Site and further Education Capital Developments (Benthal/Nightingale, Urswick, Nile Street and Tiger Way)” – Key Decision Nr FCR – N78.
- Cabinet Report 18 December 2017, titled, “Capital Programme – Leisure and Education Provision on the Britannia Site: Contractor Procurement Strategy” – Key Decision Nr FCR 056.
- Cabinet Report 25 March 2019 “LBH Britannia - Award of Design and Build Contract (Phase 1a - Leisure Centre) Key Decision No.FCR P50
- Cabinet Report 29 April 2019 titled “LBH Britannia Award of Design and Build Contract (Phase 1 - School)” Key Decision No. FCR P49
- Cabinet Report September 2019 titled “Selection of a Contractor / Developer for the Construction of Mixed Tenure Housing at Britannia Phase 2A Key Decision No FCR P47
- Cabinet Procurement Committee Report March 2020 titled “Appointment of early works contractor for Britannia Phase 2a - Key Decision No. NH Q.60

### **Equality Impact Assessment**

6.16 The Britannia development project will deliver new social infrastructure which will be to the benefit of the local community. The facilities will be designed in line with local policy, regulatory guidance, and best practice. The existing leisure services will be provided on the same site, and with at least the same provision. The school and residential development will be a new provision. The masterplan also delivers 81 genuinely affordable homes, of which 48 are for social rent.

### **Sustainability**

6.17 The social, environmental and economic benefits of the scheme are set out at paragraphs 4.18 to 4.20 of this report.

6.18 Employment & Skills: The project has committed to the London Living Wage requirements, delivery of 1 Apprentice per £2m of spend, and a target of 30% local labour. These commitments, including the project's contributions to support Employment & Skills within Hackney, e.g. through a contribution of £434,307 to Hackney Works, are set out in the Unilateral Undertaking.

## **Consultations**

6.19 Between 2016-18, the Council held over 30 different events for local residents, parents, Britannia Leisure Centre users and other interested groups about the proposals for all phases of the project. These included the original consultation in December 2016 to February 2017, community workshops, feedback sessions, drop-ins for centre users and sport groups, and the final planning exhibition in late February and early March 2018. These were held at the Colville Community Hall, Shoreditch Park Primary School and the Britannia Leisure Centre.

6.20 In addition the developer for Phase 1 has held 39 community events since their appointment in May 2019, these have included school visits, drop in sessions for parents, residents meetings, apprenticeship and career events.

6.21 As stated in paragraph 4.4, appropriation of the site for planning purposes does not require a formal consultation. However, the Council is required to formally consult on the disposal of school playing fields that are intended to be built on under Section 77 of the Schools Standards and Framework Act (1998), and has completed this consultation. This is summarised within section 4 of this report, and at Appendix 2.

## **Risk Assessment**

6.22 Strategic level and project level risk registers are reviewed by officers on a monthly basis. The strategic level risk register is reported to the LBH Britannia Development Board on a bi-monthly basis. The latest risk register, as reviewed by officers on 21st May 2020, reports the following top strategic level risks to the project relevant to this report:

- COVID 19 - impacts on the supply chain and on labour - risk of affecting site personnel/deliveries to work, availability of supplies
- Land Appropriation not completed on time for when works are programmed to start on site
- Secretary of State does not approve S77 land appropriation application
- to acquire portion of Shoreditch Park Primary School playground.
- Delay to Phase 2b and impact on school playground
- Ground Conditions (this is reduced for phase 1 but remains a risk for Phase 2a and 2b)

- Brexit risk (reduced for Phase 1 but remaining for Phase 2a and 2b)
- Heat network

Issue	Risk	Mitigation
COVID 19	Risk of affecting site personnel / deliveries to work	Phase 1 contractor to initiate general practice on hand washing, cleanliness etc. Include in future inductions.
Land Appropriation	Land appropriation at Primary school is not completed by the time works are programmed to start on site	Letter from LBH to DfE has asked for a decision by end of May in order to provide some certainty and provide enough time to enable early works contractors to mobilise. DfE are aware of timescales involved.
Secretary of State does not approve S77 application	Secretary of State does not approve S77 land appropriation application - to acquire portion of Shoreditch Park Primary School playground.	Timely consultation, careful management of communications, and robust application with information to demonstrate the wide benefits of the scheme. Timely response to queries from DfE
Delay to Phase 2b and impact on school playground	A delay to the completion of Phase 2b leads to issues in relation to completion of the CoLASP playground and access/servicing for Phase 1.	Importance of delivering CoLASP playground phase 3 to be central to decisions in relation to Phase 2b next steps.  Temporary management arrangements to be confirmed by Phase 1a and Phase 1b end users as soon as practicable.  Any delays to Phase 2b to be considered in the light of the impact to the Phase 1 scheme.
Ground Conditions	Risk of programme delay and additional cost to the project	This is now very low for Phase 1. Phase 2 - Surveys carried out as part of Phase 1 have identified asbestos in a trial pit under the location of H6. Further surveys and remediation will be required prior to concluding a commercial position with a Phase 2b contractor. This is programmed to commence post vacant possession of the plot after the leisure centre is demolished. Phase 1 contamination profile indicates that this may not be pervasive across site, but due to contamination being found, the likelihood remains higher than Phase 1.
Brexit Risk (Macro-economic pressures)	Uncertainty relating to Brexit deal arrangements leads to risk transfer, increased cost, decreased values and/or programme delay.	Phase 1 (School/Leisure) - Specific impact of Brexit on the Phase 1 supply chain considered by team and informed decision making on materials final selection and contractual risk position. Financial model to allow for client held risk as well as contractor risk, where identified. Main packages bought out prior to latest expected date to leave the EU. Impact reducing on Phase 1 as material bought out and vested in UK but remains for Phase 2

		Phase 2 - Ensure early involvement of contractors and work with them to source materials well in advance. Consider materials sourcing from only British suppliers or those outside the EU.
Heat Network	To integrate Britannia into proposed Colville heat network due to Colville programme, cost and technical constraints, may result in increased cost/delay in Britannia programme in order to meet GLA energy requirements for planning.	<p>Permanent connection to Colville committed to strategically by Board and now included within planning conditions.</p> <p>Temporary Energy Centre identified adjacent to new Leisure Centre, and temporary planning application now submitted (8 week determination period)</p> <p>Temporary Energy Centre can service the School, Leisure Centre and H1/H2 residential</p> <p>Design, Procurement, and Construction Phasing of Colville Phase 2c to prioritise energy centre delivery as far as possible (SoS est Jul 21)</p> <p>Operation &amp; Maintenance; Management &amp; Billing; Supply procurement all to be put in place - discussions commenced with procurement. Impact increased to reflect programme dependency for Phase 1.</p>

## 7. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

7.1 This report concerns the appropriation for planning purposes under Section 122 of the Local Government Act 1972 of land relating to Phase 2a of the LBH Britannia project, subject to the Secretary of State for Education's approval of the application under Section 77 of the Schools Standards & Framework Act (1998) to dispose of the school playing field at Shoreditch Park Primary School as shown on the plan at Appendix 1. There are no direct financial implications arising from the recommendations of this report.

7.2 The overall capital outlay in respect of the Britannia masterplan scheme is estimated at approximately £355m. Therefore, the level of risk associated with the project is much higher than the estimated Council contribution of £41.8m which is included in the masterplan business case. In addition, the demand for school places and the commitment to keep the existing leisure centre open while the new one is built whilst also bringing forward the construction of the affordable housing units in advance of the private for sale units means that the Council is forward funding the social infrastructure in advance of receipts from private sales and this is also



factored into the financial business case. The assumptions underpinning the financial model of the scheme are revisited on a regular basis to inform the relative risk position as set out in paragraphs 4.25 to 4.28. These include inflation assumptions and forecast sales revenues from a range of financial commentators in the context of Brexit and now Covid-19.

## **8. VAT Implications on Land & Property Transactions**

8.1 None

## **9. COMMENTS OF THE DIRECTOR, LEGAL & GOVERNANCE SERVICES**

9.1 Appropriations of land are an executive function under the Local Government Act 2000 and so any decision to appropriate land is to be taken by Cabinet (as further provided for by Rule 15.13 of London Borough of Hackney's Financial Procedure Rules).

9.2 The Council is authorised by Section 122 of the Local Government Act 1972 ("Section 122") to appropriate land within its ownership for any purpose for which it is authorised to acquire land by agreement. Where land has been appropriated for planning purposes, the consequence is that the erection, construction or carrying out of any building or other works or future uses on such land is authorised, if done in accordance with planning permission, notwithstanding that it may involve interference with third party rights.

9.3 In order to appropriate land for planning purposes (as described in s226 of the Town and Country Planning Act 1990) the Council must be satisfied that this will:

(i) facilitate the carrying out of development or improvement on or in relation to the land by being likely to contribute to the achievement of any one or more of the following objectives, namely:

(a) the promotion or improvement of the economic wellbeing of the Borough;

(b) the promotion or improvement of the social wellbeing of the Borough;

(c) the promotion or improvement of the environmental wellbeing of the Borough; or

(ii) the land is required for a purpose which it is necessary to achieve in the interests of the proper planning of the area in which the land is situated. The provision of additional residential units which would be the result of the proposed developments would satisfy the first limb of the requirement set out in section 226(1)(a) of the Town and Country Land Act 1990.

9.4 As the site currently includes part of Shoreditch Park Primary the consent of the Secretary of State is required under S77 of the School Standards and Framework Act 1998 (SSFA1998) . A S77 (SSFA 1998) application was made on the 24th of March 2020. Appropriation is subject to Secretary of State Consent. Cabinet is at 3.1 to 3.3 authorising subject to the consent of the Secretary of State to effect the appropriation

9.5 By virtue of appropriating the land in question under Section 122 of the Local Government Act 1972 (“Section 122”), Section 203 of the Housing and Planning Act 2016 provides a statutory power for the Council to override third party easements and other rights. This will apply to building or other works to be constructed or maintained on the land or future uses where these are in accordance with a planning permission for the development of the land.

9.6 The power contained in Section 203 does not remove the rights of those persons having the benefit of easements or other third party rights to compensation arising from the interference with such rights, but it does remove the potential for such persons to delay the development by obtaining an injunction to prevent interference with such rights.

## APPENDICES

Appendix 1: LBH Britannia Phase 2a Boundary Plan

Appendix 2: Section 77 Consultation Report

## BACKGROUND PAPERS

**In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required**

### Description of document (or None)

None.

<b>Report Author</b>	Ian Williams Tel: 020 8356 3002 Email: <a href="mailto:ian.williams@hackney.gov.uk">ian.williams@hackney.gov.uk</a> /
<b>Comments for the Group Director of Finance and Corporate Resources</b>	Ian Williams Tel: 020 8356 3002 Email: <a href="mailto:ian.williams@hackney.gov.uk">ian.williams@hackney.gov.uk</a> / Jackie Moylan Tel: 020 8356 3032 Email: <a href="mailto:Jackie.Moylan@hackney.gov.uk">Jackie.Moylan@hackney.gov.uk</a>
<b>Comments for the Director of Legal and Governance Services</b>	Georgia Lazari Tel: 0208 356 1369 Email: <a href="mailto:Georgia.Lazari@hackney.gov.uk">Georgia.Lazari@hackney.gov.uk</a>