

Title of Report	FRAMPTON PARK E9 7PF - APPROPRIATION OF LAND FOR PLANNING PURPOSES		
Key Decision No	CHE S159		
For Consideration By	Cabinet		
Meeting Date	12 December 2022		
Cabinet Member	Cllr Guy Nicholson, Deputy Mayor for Delivery, Inclusive Economy & Regeneration		
Classification	<p>Open with Exempt Appendix:</p> <p>By Virtue of Paragraphs using Part 1 of schedule 12A of the Local Government Act 1972 this appendix is exempt because it contains information relating to the financial or business affairs of any particular person including the authority holding the information and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>		
Ward(s) Affected	Victoria Ward		
Key Decision & Reason	<table border="1" style="width: 100%;"> <tr> <td style="width: 30%;">No</td> <td>This report is not a key decision as it only affects one ward and does not have a significant impact on spending or saving.</td> </tr> </table>	No	This report is not a key decision as it only affects one ward and does not have a significant impact on spending or saving.
No	This report is not a key decision as it only affects one ward and does not have a significant impact on spending or saving.		
Implementation Date if Not Called In	20 December 2022		
Group Director	Rickardo Hyatt, Group Director Climate, Homes and Economy		

1. Cabinet Member's introduction

- 1.1. Hackney's Council housing provides a safe, stable and affordable place to live for more than 20,000 families in the borough. As the demand for homes has grown and house prices and private sector rents have increased, the availability of Council homes has become more important than ever.
- 1.2. That's why Hackney is building. Between May 2018 and May 2022 through our pioneering, not-for-profit house building programme we started, completed or received planning permission for nearly 2,500 homes. More than half the homes we build are for social Council rent, shared ownership or Hackney Living Rent, with the rest sold outright to help pay for them – a model now followed by other Councils across London and the UK.
- 1.3. But we're not stopping there. Despite the challenges caused by the coronavirus pandemic and the increasing cost of construction, we're determined to develop plans to deliver more new Council homes in the years ahead.
- 1.4. This report seeks authority to appropriate, for planning purposes, land on the Frampton Park estate. The approval of this proposal will allow the delivery of the scheme to progress, in turn ensuring that the Council delivers on its commitments to local people, building on the detailed work with stakeholders and residents to shape and influence the scheme.
- 1.5. As with all the new developments the Council builds, this will not just benefit local people being prioritised for a new home – it will ensure that wider improvements for the local neighbourhood through investment in better public spaces and re-provided community facilities come forward.
- 1.6. I commend this report to Cabinet.

2. Group Director's introduction

- 2.1. The Housing Supply Programme is based on the delivery of mixed tenure developments. It is intended that the programme is self-funding.
- 2.2. This report seeks Cabinet authority to appropriate for planning purposes the land at Frampton Park, outlined in red on the plan at Appendix 1, in order to bring forward the housing development. The land at Tradescant House, which will be the location for 'hidden homes' within the development, is included within the overall red line boundary for the development, but is excluded from this appropriation and therefore the plan at Appendix 1, as it is housing land currently in use as homes.
- 2.3. The appropriation is required in order to enable the scheme to come forward in a timely and cost efficient manner, to meet Hackney's affordable housing programme commitments.

3. **Recommendations**

Cabinet is recommended:

- 3.1. **To agree that the land at Frampton Park, shown edged red on the plan in Appendix 1, which is currently held for housing purposes under the Housing Revenue Account (HRA), is no longer required for those purposes.**
- 3.2. **To approve the appropriation of the land set out at 3.1 for planning purposes to facilitate the carrying out of the development proposals under section 122(1) of the Local Government Act 1972.**
- 3.3. **To agree that following completion of the development proposals at paragraph 3.2 the land shown edged red on the plan at Appendix 1 will no longer be required for planning purposes and approve the appropriation of the land for housing purposes to be transferred to and administered from the Housing Revenue Account and in accordance with section 9 of the Housing Act 1985 and section 122(1) of the Local Government Act 1972.**
- 3.4. **To authorise the Group Director, Climate Homes and Economy and the Director of Legal, Democratic and Electoral Services to deal with all necessary arrangements to effect the appropriation set out in this report.**

4. **Reason(s) for decision**

- 4.1. Appropriation of land for planning purposes under section 122 of the Local Government Act 1972 ('the 1972 Act') provides the Council with a mechanism for helping minimise the delay or uncertainty associated with regeneration projects by ensuring that the proposed developments cannot be held up by injunctions in support of third party rights.
- 4.2. In order to de-risk the development of the mixed tenure scheme at Frampton Park, the appropriation of the land shown within the red line at Appendix 1 is required.
- 4.3. The land at Frampton Park, as shown in Appendix 1, for which authority to appropriate is being sought, is currently housing land administered under the Housing Revenue Account (HRA). The land following appropriation will be transferred to and administered from the General Fund Account. Once the development has been completed, the land will be appropriated as housing land and transferred back to the HRA.
- 4.4. Subsequent to the transfer back to the HRA the Council will lose the benefits of the appropriation for planning purposes. The Council will not, however,

lose the protection over whatever was built while the land was appropriated for planning purposes, and as such the newly built development would not be subject to an injunction (i.e. third parties whose rights have been injured as a result of the development will not be able to halt the development). The affected parties may, however, be able to seek compensation. Exempt Appendix 2 provides further background information.

5. **Details of alternative options considered and rejected**

- 5.1. The Council's Housing Supply Programme was approved by Cabinet in 2016. The Housing Supply Programme will be delivered directly by the Council to provide new council homes for social rent, shared ownership and outright sale, the latter in order to generate cross subsidy for the construction of the former.
- 5.2. The Frampton Park development is identified within this programme. As such it is accepted that the site needs to be appropriated for planning purposes.
- 5.3. A 'do nothing' approach has been rejected, as not appropriating the land would put the scheme at risk of delays and increased costs as a result of possible third party injunctions, and would diminish the commercial and market attractiveness of the project to prospective contractors.

6. **Background**

Policy Context

- 6.1. The Council's Sustainable Community Strategy 2018-2028 has five priorities, and the Frampton Park development assists in meeting these priorities in the following ways.
- 6.2. The first priority is centred around creating an area where everyone can enjoy a good quality of life and where the whole community can benefit from growth. The Frampton Park development will provide a mix of homes with differing levels of affordability, which caters to all ages and accommodates people's changing needs over time. The new community places and spaces have been designed for and in agreement with the existing community so that they meet their needs whilst also being inclusive, welcoming and accessible to incoming residents.
- 6.3. The construction of the Frampton Park development will create jobs, training and apprenticeship opportunities for local people, which will allow local residents and businesses to fulfil their potential and enjoy the benefits of increased prosperity, in line with the second priority.

- 6.4. The architectural, mechanical and public realm designs for the Frampton Park development are centred around creating a greener and more environmentally sustainable community as per the third priority of the Sustainable Community Strategy 2018-2028.
- 6.5. The fourth priority of creating an open, cohesive, safer and supportive community will be achieved through the provision of improved landscaping and new play areas as part of the new development, as well as offering employment and training opportunities.
- 6.6. The proposed improvements to the public realm will help create a healthy and safer neighbourhood which is pedestrian, cyclist and child friendly to support the fifth priority relating to promoting healthy and active residents.

Equality impact assessment

- 6.7. The Council is committed to building new homes that are adaptable to the varying needs of occupiers over time, and that will enable people to live independently in their homes for longer. The Frampton Park development contains seven dwellings which meet Part M4(3) of the Building Regulations – ‘wheelchair user dwellings and adaptable dwellings’. All other dwellings are designed to M4(2) standards which refer to accessible and adaptable dwellings.

Sustainability and climate change

- 6.8. The architectural, mechanical and electrical and public realm designs for Frampton Park are driven by the sustainability goals of the project. The proposal has been carefully understood in terms of performance and carbon footprint. The resulting proposal exceeds the minimum building standards, providing a holistic environmental scheme. The project has a broad range of rigorous requirements that go beyond the minimum regulations and practices, achieving high performance facades, quality indoor spaces and a new public realm which has both social and environmental benefits.
- 6.9. The Frampton Park development will redevelop a cleaning depot, community hall, garages and associated car parking spaces, to provide high quality housing and soft landscaping to enhance the appearance and the ecological value of the environment. A number of environmental benefits will arise from the main works at Frampton Park. The development includes introducing a new public realm, improved landscape areas as well as improved access to the existing estate, which will help integrate new and existing buildings. A new play street will provide play in the community.
- 6.10. Reducing building energy consumption is a key policy consideration. This scheme meets the requirement to reduce CO2 emissions by 35% from Part L of Building Regulations 2016 as per the requirements of London Policy and the Council. In order to achieve the zero carbon target, this scheme will be required to make a carbon offset payment.

- 6.11. The new buildings for the Frampton Park development will provide high quality energy efficient homes that meet current regulatory requirements relating to sustainability including Building Regulations, the Mayor's London Plan and the Council's Housing SPG. The new homes have been designed with Air Source Heat Pumps (ASHP) to achieve the required energy levels in accordance with current London Plan energy targets, and to support the transition from fossil fuels to renewable energy.
- 6.12. Recycling construction waste and the development of a Site Waste Management Plan are mandatory. The principal contractor will be required to minimise construction-related disruption to residents and other neighbouring buildings during the construction period.
- 6.13. The scheme encourages sustainable transport through the provision of 190 secure resident and visitor cycle spaces - in line with Hackney's Cycle Parking and Storage Standards. These will be provided within communal lockable bike stores with on-street stands for visitors.
- 6.14. The Frampton Park development and others will fall under the Ultra Low Emission Zone (ULEZ) when construction commences. In order to reduce the impact on air quality during the construction phase, development proposals must demonstrate how they plan to comply with the Non-Road Mobile Machinery Low Emission Zone and reduce emissions from the demolition and construction of buildings following best practice guidance.

Consultations

- 6.15. An extensive consultation programme was undertaken prior to the planning application being submitted consisting of public drop-ins, meetings and other forms of correspondence. The engagement and consultation targeted local residents and key elected and community stakeholders. The aim was to ensure that as many people as possible were engaged and could provide feedback on the proposals.
- 6.16. The proposals for Frampton Park were presented to the Tenants and Residents Association, local ward councillors and the community at a series of public drop-ins and briefings. There have also been a number of newsletters produced that provided information on the scheme and these have been delivered across the Frampton Park Estate and to surrounding addresses.
- 6.17. Activities undertaken as part of the consultation process have included:
- September 2018 (3 days) - Walk and Talk Events with local businesses and residents
 - March 2019 (2 days) - Consultation Events (19 attendees)
 - September 2019 (2 days) - Consultation Events (18 attendees)
 - February 2021 (3 days) - Online Consultation Events (9 attendees).

6.18. Throughout the design development stages the following meetings were held with the Hackney Planning department:

- Six pre-application discussions and workshops with LB Hackney Planning and Design Officers
- A presentation to LB Hackney Design Review Panel
- A presentation to Planning Sub-Committee Members at the pre-application sub-committee briefing.

6.19. During RIBA Stage 3 and 3+ the project team met with various stakeholders at Hackney Council to discuss specific aspects of the proposed scheme. Comments made at these meetings have been incorporated into the design where possible. These include:

- Planning
- Highways
- Play team
- Refuse and Recycling
- Sales and Marketing
- Heating team
- Building Maintenance
- Building Control.

6.20. In addition the project team presented the proposals to Hackney's Regeneration Design Advisory Group, Hackney's Design Review Panel and to local ward councillors.

Risk assessment

6.21. A risk register, scheduling project and technical risks, is maintained, updated and reported on a quarterly basis. Any major risks are escalated as appropriate. One risk contained within the project risk register is that failing to appropriate the land could result in an adverse cost and programme impact to the regeneration scheme.

7. Comments of the Group Director of Finance and Corporate Resources.

7.1. The recommendation to appropriate the land at Frampton Park is required to reduce the risk of legal action, which could result in a delay and an increase in cost of the scheme. While the appropriation does not prevent any claims for compensation, it limits these to six years.

7.2. Considering the improvements the regeneration will make to the area, the financial loss of any claims are likely to be minimal, although a decision still needs to be made around whether we obtain external insurance or self insure against these costs.

8. **VAT implications on land and property transactions**

- 8.1. In relation to the new dwellings, the majority of the costs should not have VAT on them.

9. **Comments of the Director of Legal, Democratic and Electoral Services**

- 9.1. Appropriations of land are an executive function under the Local Government Act 2000 and related Regulations. The decision to appropriate land is to be taken by Cabinet as per the Mayoral scheme of delegation and as further provided for by Rule 15.13 of London Borough of Hackney's Financial Procedure Rules, which further requires that the land has been declared surplus to its current use by the relevant Group Director.
- 9.2. The Council is authorised by 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. 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. The Council will be in a position to appropriate upon the grant of planning permission.
- 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.
- 9.4. The provision of additional residential units which would be the result of the proposed development would satisfy the first limb of the requirement set out in section 226(1)(a) of the Town and Country Land Act 1990.

- 9.5. Before the land can be appropriated under Section 122, the land must no longer be required for the purpose for which it was held immediately prior to appropriation. It is for the Council to determine whether the land is no longer required for the purposes for which it is held.
- 9.6. 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.
- 9.7. 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 - [Red line boundary plan of Frampton Park](#)

Appendix 2 - Exempt

Exempt

By Virtue of Paragraphs using Part 1 of schedule 12A of the Local Government Act 1972 this appendix is exempt because it contains information relating to the financial or business affairs of any particular person including the authority holding the information and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Background documents

None.

Report Author	Angela Jones Project Manager angela.jones@hackney.gov.uk 07970 490832
Comments for the Group Director of Finance and Corporate Resources prepared by	Adam Jauncey Group Accountant - Housing (Finance and Resources) adam.jauncey@hackney.gov.uk

	020 8356 7922
Comments for the Director of Legal, Democratic and Electoral Services prepared by	Georgia Lazari Team Leader (Places) georgia.lazari@hackney.gov.uk 020 8356 1369