

Delegated Report of Assistant Director Delivery and Infrastructure in consultation with the Executive Member for Highways and Planning (Delegated by Executive on 25 January 2018)

Appropriation of Land at Cantley Recreation Grounds comprising open space for planning purposes

Decision:

To appropriate for planning purposes the open space at Cantley Recreation grounds shaded red on the plan at Background paper 1 and complete all necessary formalities.

Summary

1. On 25 January 2018 the Council's Executive approved the necessary procedure pursuant to Section 122(1) and (2A) to advertise the proposed appropriation for planning purposes of just over an acre of open space at Cantley Recreation grounds, shown shaded red on the plan at Background paper 1. Further the Council's Executive delegated to the Associate Director Delivery and Infrastructure in consultation with the Executive Member for Highways and Planning authority to decide whether or not to appropriate the open space for planning purposes having first considered (amongst other things) the representations received.

Introduction and Background

2. On 28 October 2016 planning permission was granted for hybrid application under planning reference 161839. Outline planning permission was granted for a section of the Northern Distributor (NDR) including associated infrastructure and cycle and footway. Detailed permission was granted for 128 dwellings and associated areas of Suitable Alternative Natural Green Space (SANG), open space and drainage attenuation. Two accesses from Bell Foundry Lane and a temporary cycle and footway. Demolition of existing farm buildings and one dwelling.
3. The section of the NDR includes footway and cycleway which would in part be accommodated by the appropriation of a narrow formerly vegetated strip of Cantley Recreation Grounds for planning purposes. Delivery of the NDR is supported by and forms part of the Development Plan policy.

Appropriation of land for Planning Purposes

4. Section 122 of the Local Government Act 1972 provides that a local authority may appropriate land for any purpose, and requires the local authority to publish their intention to do so for two consecutive weeks in a newspaper in its area if the land consists of open space, and to consider any objections to the proposed appropriation. Provided that land is validly appropriated for planning purposes, then under section 203 of the Housing and Planning Act 2016, carrying out any development on the land in accordance with a valid planning permission is authorised, notwithstanding that it may interfere with certain private rights such as restrictive covenants and easements.
5. Appropriation of land for planning purposes is intended to enable a local authority to take positive steps to bring about the development of their area for the public good. The use

of appropriation power needs to be justified by a clear 'public interest' case that overrides the individual rights of potential affected third party owners and occupiers of nearby properties.

6. The development in this instance is a section of the proposed Northern Distributor Road (NDR) adjacent to Bell Farm, Bell Foundry Lane. The NDR is supported in Development Plan policy. The Council's Core Strategy Policy CP20 identifies a requirement to improve transport capacity to enable the development of the North Wokingham Strategic Development Location (SDL). The Council's Executive on 24 September 2015 agreed the delivery route option to provide the alignment for the Northern Distributor Road (NDR) and to progress it through detailed design and planning applications. The alignment options were subject to extensive public consultation. The Council also undertook a number of liaison meetings with local councillors and with landowners.
7. The area of land subject to the proposed appropriation forms a strip of land forming a border of Cantley Recreation Ground.
8. In making this recommendation, regard has been had to the extent to which this may impact upon the human rights of owners and residents that may be affected and to balance those against the overall benefits to the community and the regeneration of the area that redevelopment will bring. The decision maker will need to be satisfied that interference with rights under Article 1 and Article 8 of the First Protocol to the European Convention on Human Rights is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of rights of individuals and the public interest. Officers consider that the balance in this case weighs substantially in favour of the public interest and, accordingly, recommend that the parcel of land shown shaded red on the plan at Background paper 1 is appropriated for planning purposes.
9. The Council is authorised to appropriate land that it owns for planning purposes under Sections 122(1) and (2A) of the Act and Section 233 of the Town and Country Planning Act 1990 (as amended) which, subject to a number of provisions, allows "a principal Council to appropriate land which belongs to the Council and is no longer required for the purpose for which it was held immediately before the appropriation....". The strip of land subject of this reports comprises a relatively small part of a larger area of open space at Cantley Recreation grounds. There are also areas of open space in the form of Suitable Alternative Natural Greenspaces (SANG) in this area of Wokingham, which include Bell Farm SANG and Old Forest Road SANG (approximately 14 hectares).
10. There were a handful of responses to the press notices advertising the proposed appropriation, one of which was a relevant objection. The remaining responses were not objections to the proposed appropriation and some sought electronic copies of the appropriation plan (Background paper 1). The objection related to the procedure and its transparency or lack thereof. "...". Where a Council proposes to appropriate open space it must advertise its intention to appropriate for two consecutive weeks in a newspaper circulating in the area in which the land is situated and consider any objections which may be made to them. The objection in brief related to the absence of information relating to the use of the land granted planning permission which was associated with the proposed appropriation in the statutory process for appropriation set out in Section 122 of the Local Government Act 1972. In response to the objectors separate complaint the Council confirmed that it had discharged the statutory requirement under section 122 of the Local Government Act 1972.

Equality and Diversity Implications

11. The Equality Act is not relevant to the decision in this report as the decision does not relate to eliminating discrimination, advancing equality of opportunity, or fostering good relations between different people. An Equality Impact Assessment has not been carried out.

Reason for Decision

12. The appropriation of this relatively small area of open space in an area of Wokingham which has significant areas of publically accessible open space supports the delivery of a critical section of the NDR which in turn is supported in Development Plan policy. The NDR in turn is a necessary prerequisite to the delivery of residential, community and commercial development within the North Wokingham Strategic Development Location, the social, economic and environmental benefits of which outweigh the protection of the rights of individuals.