

TITLE	Appropriation of Land to Facilitate the Wheatsheaf Close Self-Build Project
FOR CONSIDERATION BY	The Executive on Thursday, 20 February 2020
WARD	Winnersh
LEAD OFFICER	Deputy Chief Executive - Graham Ebers
LEAD MEMBER	Executive Member for Finance and Housing - John Kaiser

PURPOSE OF REPORT (INC STRATEGIC OUTCOMES)

To receive consent from Executive to appropriate the land off Wheatsheaf Close, Sindlesham (as detailed at Appendix 1) for planning purposes.

RECOMMENDATION

That the Executive approves that the necessary steps be taken to appropriate the Council-owned land off Wheatsheaf Close (edged red on the plan attached as Appendix 1 to the report) for planning purposes under Section 122 of the Local Government Act 1972 and Section 232 of the Town and Country Planning Act 1990.

EXECUTIVE SUMMARY

The Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) placed a duty on the Council to grant sufficient development permissions to meet the need demonstrated by the self-build and custom housebuilding register within three years of the conclusion of each annual base period. In light of the duties the Council has approved and is progressing a community-led self-build scheme on council-owned land off Wheatsheaf Close, Sindlesham.

The Council land off Wheatsheaf Close has been allocated for housing as a reserve site in the 2014 Managing Development Delivery (MDD) Development Plan Document. The site was released for development following an Executive decision on 27th July 2017.

On 31st January 2019 the Executive approved that land off Wheatsheaf Close should be developed as a community-led self-build project. The project aims to deliver around 21 plots – 13 for shared ownership and 8 as private plots. The report also approved that the land can be appropriated for planning purposes under section 227 of the Town and Country Planning Act 1990 and Section 122 of the Local Government Act 1972.

However, as the land off Wheatsheaf Close has been on occasion used for informal recreational use, it could be considered by some members of the public as open space. To enable the proposed development and mitigate the risks of challenge which may delay development and incur significant costs, the Council has been advised to activate a formal appropriation process for this parcel of land, in order to achieve a formal cessation of the potential use as public open space to ensure there is no subsequent challenge based on such use.

The report seeks Executive approval for the appropriation of the land off Wheatsheaf Close under Section 122 of the Local Government Act 1972 and Section 232 of the Town and Country Planning Act 1990.

BACKGROUND

Self and Custom Build Legislation

The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) requires relevant authorities to:

- Keep a register of individuals and groups who wish to self or custom build in their local area;
- Have regard to demand on their register when undertaking planning, housing, disposal of land and regeneration functions; and
- Grant permissions to enough suitable serviced plots to reflect the demand within 3 years.

The Council is expected to grant permission for a sufficient number of serviced plots to meet the demand for self-build and custom housebuilding as evidenced on its register within three years of the conclusion of each base period. The Council does not have to provide the plots itself or to match plots to individuals on the register.

The development of the council-owned site will contribute to meeting housing need by enabling residents to get onto the housing ladder, and involving them directly in the design and delivery of their new homes.

Site background

The land off Wheatsheaf Close (site layout in Appendix 1) was allocated as a reserve housing site in the Managing Development Delivery (MDD) Development Plan Document SAL03 (February 2014) for the delivery of around 24 dwellings depending upon layout and size/form of any homes. Following an Executive decision on 27th July 2017 the site was released for development.

On 31 January 2019 the Executive approved that the land can be appropriated for planning purposes under section 227 of the Town and Country Planning Act 1990 and Section 122 of the Local Government Act 1972. The Executive also approved that the site should be delivered as a community-led self-build project for around 21 homes.

However, as the land at Wheatsheaf Close has occasionally been used for informal recreational purposes it could be considered by some members of the public as open space. To avoid any challenges which would delay development and incur a high cost for the Council the Council has been advised to go through a formal appropriation process.

Appropriation

Local authorities hold land for particular purposes. An appropriation (transfer) is where an authority changes the purpose of the holding from one category to another. The use of the land off Wheatsheaf Close is not clearly determined in the past and it may have been used informally as public open space or amenity use.

The report seeks Executive approval for the appropriation of the land off Wheatsheaf Close under Section 122 of the Local Government Act 1972 and Section 232 of the Town and Country Planning Act 1990. Section 122 allows appropriation for any purpose

which the Authority is authorised and section 232 allows appropriation for planning purposes. Both support the requirements/powers of the 2015 and 2016 Acts referred to above.

The Council may not appropriate or dispose of any land consisting of or forming a part of an open space without first providing public notice for two consecutive weeks in a local newspaper and thereafter, allowing for a reasonable period to consider any objections to the consultation. The Council will fully consider any comments / objections received within the prescribed closing date. Where no objections have been received, and / or the benefits of the project outweigh the objections received, the Council may determine acting by an independent appointed officer for the purpose of making the decision that the appropriation be finalised or not. If the appropriation is finalised the Council can then proceed with the development in the knowledge that having effected the proper process an application for judicial review would be very difficult for anyone to effect and thereby cause the development to be delayed or frustrated .

‘Open space’ is defined in section 336(1) of the Town and Country Planning Act 1990 as ‘any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground.’ It is the use in this case “for the purpose of public recreation” (which has been widely defined) which the appropriation is intended to deal with.

BUSINESS CASE

Appropriation

The Council own the freehold of the land off Wheatsheaf Close. The land has been earmarked for development for a number of years referenced in the 2014 MDD, released for development in 2017 and the self-build approach approved in 2019.

The land has been used on occasions for recreational purposes by local residents. Therefore the council is taking the formal route of appropriating land off Wheatsheaf Close for planning purposes to avoid the risk of challenge by judicial review which would be costly and delay development. This report asks for Executive to approve the appropriation procedure.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council continues to face severe financial challenges over the coming years as a result of reductions to public sector funding and growing pressures in our statutory services. It is estimated that Wokingham Borough Council will be required to make budget reductions of approximately £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£600	Yes	Revenue
Next Financial Year (Year 2)	N/A	N/A	N/A
Following Financial Year (Year 3)	N/A	N/A	N/A

Other Financial Information
Appropriation is an administrative process and the immediate financial implications relate to the costs of publishing the appropriate notices for two weeks in a local newspaper and Legal Services charges for preparing the advertisement. The Community Housing Fund grant can be used to fund this if it is carried out by March 2020.

Stakeholder Considerations and Consultation
If Executive approve the appropriation of the land the Council then must advertise the proposal for two consecutive weeks in a local newspaper. Whether the Council proceeds to appropriation has to then be decided by an impartial Council Officer not related to the project after having fully considered all comments / objections received by the prescribed closing date.

Public Sector Equality Duty
An equality impact assessment is not required.

List of Background Papers
Executive decision on 27 July 2017, Housing Land Supply and Reserve Sites Executive decision on 31 January 2019, Wheatsheaf Close – self-build project

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Land off Wheatsheaf Close Site Plan

The Council's freehold land shown edged with red on the plan.

