

MUNICIPAL YEAR 2013/2014 REPORT NO. 12

MEETING TITLE AND DATE:

Cabinet – 19th June 2013

JOINT REPORT OF:

Ray James, Director of Health, Housing and Adult Social Care and Neil Rousell, Director of Regeneration, Leisure and Culture

Agenda - Part: 1	Item: 7
Subject: Ladderswood – Appropriation for Planning Purposes	
Wards: Southgate Green	
Key Decision No: KD 3423	
Cabinet Members consulted: Cllr Oykenor and Cllr Goddard	

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1. EXECUTIVE SUMMARY

- 1.1 On 27th April 2011 Cabinet granted authority for the Council to enter into a Development Agreement with the selected developer.
- 1.2 The Development Agreement that the Council entered into on 22nd December 2011 includes a number of conditions that must be fulfilled by both the Council and the developer in order to allow the development of Ladderswood to proceed.
- 1.3 One of these conditions was for the Council to use its powers to appropriate the land for planning purposes.
- 1.4 This report seeks approval for the Council to use its powers to appropriate the land required for the Ladderswood development for planning purposes.

2. RECOMMENDATIONS

- 2.1 In accordance with section 122 of the Local Government Act 1972 appropriate the sites shown outlined in bold on the plan attached to this report as Appendix 1 from their present holding purposes to planning purposes and in particular the purposes set out in section 237 of the Town and Country Planning Act 1990.

3. BACKGROUND

- 3.1 The Ladderswood Way estate and the New Southgate Industrial estate were constructed in the 1960s through to the 1970s and comprise approximately 3.2 hectares of developed land. The Ladderswood Way estate contains 161 residential units housed in 6 blocks (Curtis House, Danford House, Betspath House, Mason House, Lorne House and Roberts House). 44 of the 161 properties were owned by leaseholders. The New Southgate Industrial estate contains 30 commercial units which house 19 commercial tenants. Since the construction of both the Ladderswood estate and the New Southgate Industrial estate there has been a gradual deterioration in the state of the residential and commercial buildings.
- 3.2 In July 2007 the Council commissioned Levitt Bernstein to assess the regeneration potential of the Ladderswood estate and the surrounding area; the commission also included three consultation activities. The report found that there was significant opportunity available to provide more and better homes for new and existing residents. The report also identified substantial opportunity to increase the positive effect of regeneration if the New Southgate Industrial estate be included in an overall regeneration scheme. More residents were in favour of redevelopment than refurbishment although in some cases this was by a close margin.
- 3.3 The Levitt Bernstein report (2007) was then followed up by an options appraisal carried out by Drivers Jonas LLP in partnership with the architects, Shepherd Epstein and Hunter. Again a resident and stakeholder consultation programme was delivered and the findings supported a report to Cabinet on the 25th November 2009 (*Ladderswood Way Estate, Place Shaping Report (136)*) recommending redevelopment of four of the blocks, refurbishment of two of the blocks and partial redevelopment of the New Southgate Industrial estate.
- 3.4 Subsequently, an extensive consultation programme has been undertaken with the residents of Lorne House and Roberts House; the two blocks originally identified for refurbishment. The consultation indicated that the majority of residents were in favour of the blocks being included in the redevelopment and therefore Cabinet authorised the inclusion of 1 to 15 Roberts House and 4 to 42 Lorne House.
- 3.5 The redevelopment proposals have been drawn up in partnership with a variety of stakeholders including Ladderswood residents, residents from the wider neighbourhood, commercial tenants, key local stakeholders and central, regional and local Government. The proposals will ensure a mix of affordable, social and private housing supported by new social infrastructure and commercial facilities.

- 3.6 On 27th April 2011 Cabinet granted authority for the Council to enter into a Development Agreement with the selected developer. (Key decision reference: 3220) This report recommended the appointment of a developer and that a Development Agreement was entered into with that developer to secure the delivery of the Ladderswood development
- 3.7 On 22nd December 2011 the Council completed the Development Agreement with the New Ladderswood LLP as the development partner. This agreement includes a number of conditions that both the Council and the developer must fulfil to help enable completion of the development. One of these conditions is for the Council to use its powers to appropriate the land for planning purposes.
- 3.8 The planning application for the development was submitted on 7th September 2012.
- 3.9 On 27th February 2013 the council granted planning consent, subject to GLA approval and completion of a Sec. 106 Agreement, for the development of Ladderswood. Once these final permissions have been obtained the council will then be able to appropriate the land for planning purposes.
- 3.10 It is recommended that the land required for the completion of the Ladderswood development should be appropriated for planning purposes pursuant to section 122 of the 1972 Act in order that section 237 of the 1990 Act shall apply to it.
- 3.11 Local authorities may appropriate land in their ownership for planning purposes. If land is appropriated for planning purposes then the power under section 237 of the 1990 Act to override easements and other rights, for example, rights of light and restrictive covenants can be used when developing that land. That power may be used either by the local authority or by a person deriving title to the land in question from the local authority, e.g. a private developer who has entered into an agreement to develop the land.
- 3.12 Any rights overridden by section 237 are automatically translated into a right to claim compensation for resulting loss. This means that the holders of the original rights no longer have the ability to seek an injunction against the development for infringement of their rights. The developer will not commence constructions works until this risk of an injunction has been resolved (by approving this report).

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None; see reasons for recommendations below.

5. REASONS FOR RECOMMENDATIONS

- 5.1 The Development Agreement entered into by the Council includes a requirement, as a condition precedent, for the Council to use its powers to appropriate the land for planning purposes. If the Council does not appropriate for land for planning purposes the developer could terminate the Development Agreement.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

- 6.1.1 The costs associated with appropriating the land required for the Ladderswood development for planning purposes will be covered by the Development Partner. The developer will indemnify the Council from all costs incurred in appropriating the land for planning purposes

6.2 Legal Implications

- 6.2.1 Under section 122 of the Local Government Act 1972 the Council may appropriate land from one purpose to another if that land is no longer required for the purposes for which it is held. In this instance the land is currently held for housing purposes and commercial uses but it is now required for development for planning purposes as authorised by a planning consent.
- 6.2.2 Section 237 of the 1990 Act allows works to be carried out on land appropriated for planning purposes as long as those works are in accordance with planning permission, even though those works may interfere with an interest or right affecting the land or involve a breach of a restriction on the use of the land. Appropriation of land for planning purposes under the 1990 Act in order to facilitate a redevelopment scheme is a usual and advisable procedure so that those with interests protected by easements and other legal rights may be dealt with fairly but without compromising the deliverability of the scheme. .
- 6.2.3 Compensation is payable where loss is suffered as a result of interference with any such rights. It is noted that the Developer is to meet any such claims that may arise in this case.
- 6.2.4 The Council's Property Procedure Rules set out the process to be followed where an appropriation is proposed. A report needs to be made to the Directors of the services involved and they will need to approve the proposal in consultation, as necessary, with the relevant Portfolio holders. There are no specific financial requirements.

Property Implications

- 6.2.1 The Property Implications are as contained in the body of this report.
- 6.2.2 The Development Agreement requires the developer, the New Ladderswood LLP, to enter into an Indemnity Agreement to indemnify the Council for all costs that might be incurred as a result of any compensation claims that might arise as a result of the Council implementing the decision to appropriate the land for planning purposes.
- 6.2.3 Officers are aware of two potential claims that might arise as a result of the Council implementing the decision to appropriate the land for planning purposes. The potential claims arise as a result of proposed changes to the access route to an adjoining industrial estate not in Council ownership. Officers have commenced negotiations with these potential claimants to seek agreement to the proposed new access route.

7. KEY RISKS

If the recommendation is not adopted the developer may decide to terminate the Development Agreement.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The Ladderswood Place Shaping Programme contributes to this aim by tackling inequality and access to social housing by providing new homes, a mix of tenure and employment opportunities in the New Southgate Masterplan area.

8.2 Growth and Sustainability

The Ladderswood Estate Renewal scheme contributes to this priority by building strong and sustainable futures for our residents. The scheme attracts investment from the private sector, empowers the voluntary and community sector and promotes business growth by re-providing B1 commercial space. It is the flagship project in the New Southgate Masterplan and is the first step towards delivering the planned regeneration of the New Southgate Priority Area, and housing growth, as set out in the Masterplan and the Core Strategy.

8.3 Strong Communities

The Ladderswood Resident Panel plays a central role in driving forward change and regeneration in the local area to create a stronger community in the New Southgate Masterplan area.

9. EQUALITIES IMPACT IMPLICATIONS

9.1 Not applicable.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

10.1 Not applicable.

11. HEALTH AND SAFETY IMPLICATIONS

11.1 Not applicable.

12. HR IMPLICATIONS

12.1 Not applicable.

13. PUBLIC HEALTH IMPLICATIONS

13.1 Not applicable.

Background Papers

None.