

Report to: Cabinet
Date of meeting: 16 February 2015
Report of: Martin Jones, Programme Manager
Title: Watford Health Campus - Appropriation of Oxhey Park Open Space

1.0 **SUMMARY**

1.1 The land known as Oxhey Park lying to the north of the River Colne between the river and the railway embankment has been designated as Open Space since its acquisition by the Council in 1920 for the purposes of public walks and pleasure grounds.

In order to facilitate the construction of the new Link Road for the Hospital following the granting of planning permission in December 2013 under application reference 13/00971/FULM, the land shown edged red on the attached plan needs to be appropriated by the Council for Planning purposes.

Whilst the land was previously included within the CPO boundary, on the advice of the Council's QC, this has been removed and the decision has been made to appropriate the land under the Local Government Act 1972. The end result and programme will remain the same as before only the procedure adopted to appropriate the land is different.

1.2 The Watford Health Campus Partnership LLP (LABV) received planning permission for the new road serving Watford Hospital in December 2013 and went through a consultation process including local groups and incorporated a number of their suggestions in design. The road will extend through the northern section of Oxhey Park from Dalton Way in the east to Wiggshall Road in the west before pushing up to the hospital site. Since April 2014, the LABV have been discharging the required pre commencement conditions to facilitate starting the construction of the road in April 2015. Some site clearance, demolition and ecology works have taken place so far and the LABV are in the process of obtaining the required Highway consents and agreements with Hertfordshire County Council as the Highway Authority

1.3 Although the Council is the Landowner, due to its designation as Open Space, the land required needs to be appropriated for planning purposes prior to any construction taking place. The land was previously included within the red line boundary for the CPO for appropriation under the CPO process however, on the advice of the Council's QC, this has subsequently been removed. Including the land within the CPO process would legally have required a special Parliamentary Procedure to CPO the land and the Council would also be required to provide replacement land of the same area to offset the loss. By removing it from the CPO process and using the procedure in the Local Government Act to appropriate only part of the Park for the purposes of the road for which planning permission has already been granted, the Council avoids that complication. The principle of the road being constructed through the Park and the loss of some Open Space has previously been agreed by the Council through the planning determination process.

The wider Health Campus development which has now been granted planning permission provides additional and improved levels of open space and park areas and significantly improves accessibility to the Colne Valley.

- 1.4 The appropriation by Cabinet will include the permanent land required by the road for its alignment but also the temporary working areas either side of the road corridor and the area of the Irish Club. It is the intention to transfer the temporary working areas and Irish Club land back into Open Space once the works have taken place. This is shown on plan in annex 2

2.0 **RECOMMENDATIONS**

- 2.1 That the land identified edged red on the Plan being land currently designated as Open Space that is required to facilitate the construction of the Link Road for Watford Hospital is appropriated for Planning Purposes under Section 122 of the Local Government Act 1972.

Contact Officer:

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Report approved by: Carol Chen, Head of Democracy and Governance

3.0 **DETAILED PROPOSAL**

- 3.1 The Council can appropriate land for any purpose for which it is authorised to acquire land by agreement. The appropriation process is set out in the Local Government Act 1972. Section 122 (1) provides:

- (i) subject to the following provisions of this section, a principal Council may appropriate for any purpose for which the Council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation; but the appropriation of land by a Council by virtue of this sub section shall be subject to the rights of other persons in, over or in respect of the land concerned.

The Council is a principal Council and so must follow the process set out in Section 122. Cabinet should only resolve and authorise the Council to appropriate land for another purpose if it is satisfied that the land is no longer required for the purpose for which it is held. Whilst the Council currently holds the land as public open space, it is clearly required for the building of the new hospital link road. It should therefore be appropriated for planning purposes.

Requisite notices required under the 1972 Act were published in the Watford Observer on 23rd and 30 January 2015 notifying of the intention to appropriate the land from open space to planning purposes.

No objections have been received

The land at Oxhey Park between the northern edge of the River Colne and the former railway embankment as shown edged red on the attached plan is required to facilitate and deliver the new road for Watford Hospital and the subsequent Watford Health Campus development prescribed within Policy SPA3 of the Council's adopted Core Strategy Local Plan Part 1.

Planning permission was granted for the road in December 2013 by the Council's Development Control Committee, effectively approving the principle of the road utilising part of the lands within the existing Open Space known as Oxhey Park. It was resolved to grant planning permission for the hybrid planning application for the quantum of development within the Health Campus site in December 2014 subject to the completion of a s106 Planning Obligation. The s106 was completed in January 2015 and a Decision Notice authorising the granting of planning permission was issued on 6 January 2015.

The Public Inquiry for the Compulsory Purchase of any land not in the ownership of the Council required to deliver the scheme was held in January 2015. Originally, it was proposed to appropriate the land required for the construction of the road through the CPO process and this included the entire northern part of the park.

On the advice of the Council's QC, this part of the park was removed from the CPO. In order therefore to be able to use the land to construct the road the subject of the December 2013 planning permission the land needs to be appropriated for planning purposes under the 1972 Act.

As stipulated within 1.3 above, additional Open Space is provided through the wider Health Campus development that now has planning permission.

- 3.2 The land proposed to be appropriated as shown on the plan includes the land permanently required for the alignment of the road through the park. In addition, land will also be required on a temporary basis for the purposes of the working area for construction and site compounds that includes the Irish Club site. It would be the intention once the construction works have been completed that any land not used for the road would revert back to Open Space within the Park.
- 3.3 By appropriating the land in this way, this reduces the risk to the LABV of being able to start works on the road promptly and within the indicative programme. It reduces the risk for the mobilisation of the Contractor which, if reliant on the CPO timetable could take up to five months for a decision. Whilst the majority of the land falls within the ownership of the Council and therefore works can start, appropriation in this manner will allow greater flexibility within the mobilisation period which is desirable.

4.0 IMPLICATIONS

4.1 Financial

- 4.1.1 The Director of Finance comments that there are no financial implications as a result of this report.

4.2 Legal Issues (Monitoring Officer)

- 4.2.1 The Head of Democracy and Governance comments that the legal implications are set out in the body of the report.
- 4.3 **Equalities**
- 4.3.1 There are no equalities implications arising from this report.
- 4.4 **Potential Risks**
- 4.4.1 The main risk associated with the Council not appropriating the land for planning purposes would be that there would be a delay in the mobilisation of the Contractor to facilitate the construction of the road. This would result in delays to the construction of the road. The Health Campus Project has its own risk register and risks associated with it are also captured in both the Corporate and Service Risk Registers.
- 4.5 **Staffing**
- 4.5.1 There are no staffing implications from this report.
- 4.6 **Accommodation**
- 4.6.1 There are no accommodation implications from this report.
- 4.7 **Community Safety**
- 4.7.1 There are no community safety implications from this report.
- 4.8 **Sustainability**
- 4.8.1 There are no sustainability implications from this report.

Appendices

Plan showing extent of land to be appropriated

Background Papers

None

File Reference

None